

# HOUSE BILL No. 1217

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-5-2-32; IC 3-10; IC 3-11-1.5-32; IC 3-13-11-21; IC 4-4-14-1; IC 4-20.5-1-9.1; IC 4-33-13-5; IC 5-11-1-16; IC 5-20-2-2; IC 6-1.1; IC 6-3.5; IC 7.1-4; IC 8-1; IC 8-1.5-1-8; IC 8-14; IC 8-16-3-1.5; IC 8-21; IC 13-11-2-135; IC 23-14-65-4; IC 32-24-2-2; IC 34-6-2-110; IC 34-30-2-158; IC 36-1-2; IC 36-4-1-1; IC 36-6.5; IC 36-7-1-12.

**Synopsis:** Boroughs. Authorizes the creation of a borough in a township that contains at least one town. Provides that the borough is a municipality that replaces the government of the town and township government. Requires the election of a borough assessor. Provides that the borough has the same powers and duties as and is subject to the statutes applicable to second class cities. Provides that the borough executive has the same powers and duties as a mayor of a second class city and a township trustee. Provides revenue distribution provisions for boroughs. Provides that the county is responsible for maintenance, repair, and construction of the roads and streets in the borough unless the borough elects to assume responsibility. Establishes an interim study committee on boroughs to prepare legislation for introduction in the 2004 session to create technical and substantive amendments consistent with the purposes of this act.

**Effective:** July 1, 2003.

## Mangus

January 8, 2003, read first time and referred to Committee on Local Government.



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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1217

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 3-5-2-32 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2003]: Sec. 32. "Municipality" means a city, ~~or~~
- 3 town, **or borough.**
- 4 SECTION 2. IC 3-10-6-1 IS AMENDED TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This chapter applies to
- 6 municipal and school district elections in the following municipalities:
- 7 (1) All cities.
- 8 (2) Towns having a population of three thousand five hundred
- 9 (3,500) or more.
- 10 (3) Towns located entirely or partially within a county having a
- 11 consolidated city, regardless of their population.
- 12 **(4) Boroughs.**
- 13 (b) Prison inmates may not be counted in determining population
- 14 size for purposes of this chapter.
- 15 SECTION 3. IC 3-10-2-13 IS AMENDED TO READ AS
- 16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. The following
- 17 public officials shall be elected at the general election before their



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terms of office expire and every four (4) years thereafter:

- (1) Clerk of the circuit court.
- (2) County auditor.
- (3) County recorder.
- (4) County treasurer.
- (5) County sheriff.
- (6) County coroner.
- (7) County surveyor.
- (8) County assessor.
- (9) County commissioner.
- (10) County council member.
- (11) Township trustee.
- (12) Township board member.
- (13) Township assessor.

**(14) Borough assessor.**

~~(14)~~ **(15)** Judge of a small claims court.

~~(15)~~ **(16)** Constable of a small claims court.

SECTION 4. IC 3-11-1.5-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 32. The legislative body of a municipality may not change the boundary of a district established under:

- (1) IC 36-3-4-3;
- (2) IC 36-4-6-3;
- (3) IC 36-4-6-4;
- (4) IC 36-4-6-5;
- (5) IC 36-5-1-10.1;
- (6) IC 36-5-2-4.1; ~~or~~
- (7) IC 36-5-2-4.2; ~~or~~
- (8) IC 36-6.5-3;**

after November 8 of the year preceding the year in which a municipal election is to be held and before the day following the date on which the municipal election is held except to assign territory to a municipal legislative body district in an annexation ordinance.

SECTION 5. IC 4-4-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Department" refers to the department of commerce.

"Municipality" means a city, ~~or~~ town, **or borough.**

SECTION 6. IC 4-20.5-1-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.1. "Municipality" means a city, ~~or~~ town, **or borough.**

SECTION 7. IC 4-33-13-5, AS AMENDED BY P.L.192-2002(ss), SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2003]: Sec. 5. (a) After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars (\$33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (d).

(2) Subject to subsection (b), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

(B) in equal shares to the counties described in IC 4-33-1-1(3), in the case of a riverboat whose home dock is on Patoka Lake; or

(C) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A) or a county described in clause (B).

(3) Subject to subsection (c), the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund.

(b) For each city and county receiving money under subsection (a)(2)(A) or (a)(2)(C), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat wagering taxes that:

(1) exceeds a particular city or county's base year revenue; and

(2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

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(c) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the property tax replacement fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars (\$250,000,000):

(1) Surplus lottery revenues under IC 4-30-17-3.

(2) Surplus revenue from the charity gaming enforcement fund under IC 4-32-10-6.

(3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the property tax replacement fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the property tax replacement fund from the transfers under subsection (a)(3) for the state fiscal year.

(d) Before August 15 of 2003 and each year thereafter, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. The county treasurer shall distribute the money received by the county under this subsection as follows:

(1) To each city located in the county according to the ratio the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio the town's population bears to the total population of the county.

**(3) To each borough located in the county according to the ratio the borough's population bears to the total population of the county.**

~~(3)~~ **(4)** After the distributions required in subdivisions (1) ~~and (2)~~ **through (3)** are made, the remainder shall be retained by the county.

(e) Money received by a city, town, **borough**, or county under subsection (d) may be used only:

(1) to reduce the property tax levy of the city, town, **borough**, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, **borough**, or county under IC 6-1.1-18.5);

(2) for deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for additional credits for property

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- 1 tax replacement in property tax increment allocation areas;  
 2 (3) to fund sewer and water projects, including storm water  
 3 management projects; or  
 4 (4) for police and fire pensions.

5 However, not more than twenty percent (20%) of the money received  
 6 under subsection (d) may be used for the purpose described in  
 7 subdivision (4).

8 (f) Before September 15 of 2003 and each year thereafter, the  
 9 treasurer of state shall determine the total amount of money distributed  
 10 to an entity under IC 4-33-12-6 during the preceding state fiscal year.  
 11 If the treasurer of state determines that the total amount of money  
 12 distributed to an entity under IC 4-33-12-6 during the preceding state  
 13 fiscal year was less than the entity's base year revenue (as determined  
 14 under IC 4-33-12-6), the treasurer of state shall make a supplemental  
 15 distribution to the entity from taxes collected under this chapter and  
 16 deposited into the property tax replacement fund. The amount of the  
 17 supplemental distribution is equal to the difference between the entity's  
 18 base year revenue (as determined under IC 4-33-12-6) and the total  
 19 amount of money distributed to the entity during the preceding state  
 20 fiscal year under IC 4-33-12-6.

21 SECTION 8. IC 5-11-1-16 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) As used in this  
 23 article, "municipality" means any county, township, city, town,  
 24 **borough**, school corporation, special taxing district, or other political  
 25 subdivision of Indiana.

26 (b) As used in this article, "state" means any board, commission,  
 27 department, division, bureau, committee, agency, governmental  
 28 subdivision, military body, authority, or other instrumentality of the  
 29 state, but does not include a municipality.

30 (c) As used in this article, "public office" means the office of any  
 31 and every individual who for or on behalf of the state or any  
 32 municipality or any public hospital holds, receives, disburses, or keeps  
 33 the accounts of the receipts and disbursements of any public funds.

34 (d) As used in this article, "public officer" means any individual  
 35 who holds, receives, disburses, or is required by law to keep any  
 36 account of public funds or other funds for which the individual is  
 37 accountable by virtue of the individual's public office.

38 (e) As used in this article, "entity" means any provider of goods,  
 39 services, or other benefits that is:

- 40 (1) maintained in whole or in part at public expense; or  
 41 (2) supported in whole or in part by appropriations or public funds  
 42 or by taxation.

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The term does not include the state or a municipality (as defined in this section).

(f) As used in this article, a "public hospital" means either of the following:

(1) An institution licensed under IC 16-21 and which is owned by the state or an agency of the state or one which is a municipal corporation. A hospital is a municipal corporation if its governing board members are appointed by elected officials of a municipality.

(2) A state institution (as defined in IC 12-7-2-184).

SECTION 9. IC 5-20-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, each of the following shall have the meaning indicated unless a different meaning clearly appears from the context:

(1) "Bonds" means the revenue bonds authorized to be issued under this chapter and includes notes and any and all other limited obligations of a county or municipality payable as provided in this chapter.

(2) "Executive officer" of a county, city, or town has the meaning set forth in IC 36-1-2-5.

(3) "Governing body" of a county, city, or town has the meaning set forth in IC 36-1-2-9.

(4) "Home" means real property and improvements thereon constructed for human habitation, located within the county or municipality, consisting of not more than four (4) units, and owned by one (1) mortgagor who occupies or intends to occupy one (1) of such units.

(5) "Home mortgage" means an interest bearing loan for not to exceed thirty (30) years to a mortgagor for the purpose of purchasing or improving a home, evidenced by a promissory note and secured by a mortgage on this home, but shall not include a loan primarily for the purpose of refinancing an existing loan.

(6) "Lending institution" means any bank, trust company, savings bank, national banking association, savings association, mortgage banker, or other financing institution or governmental agency which customarily provides service or otherwise aids in the financing of mortgages on single family residential housing or multifamily residential housing, which institution, for a county, is located in that county, and for a municipality is located in the county in which the municipality is located, or any holding company for any of the foregoing.

(7) "Mortgagor" means an individual, or two (2) or more

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1 individuals acting together, who have received a home mortgage  
2 under this chapter.

3 (8) "Recording officer" means the clerk or clerk-treasurer of a  
4 county or municipality.

5 (9) "Municipality" means a city, ~~or town,~~ **or borough.**

6 SECTION 10. IC 6-1.1-1-21 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. "Taxing unit"  
8 means an entity which has the power to impose ad valorem property  
9 taxes, **including a borough established under IC 36-6.5.**

10 SECTION 11. IC 6-1.1-18.5-21 IS ADDED TO THE INDIANA  
11 CODE AS A NEW SECTION TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2003]: Sec. 21. **(a) A borough is not subject**  
13 **to the levy limits imposed by section 3 of this chapter for an**  
14 **ensuing calendar year if the borough did not adopt an ad valorem**  
15 **property tax levy for the immediately preceding calendar year.**

16 **(b) If, under subsection (a), a civil taxing unit is not subject to**  
17 **the levy limits imposed by section 3 of this chapter for a calendar**  
18 **year, the borough shall refer its proposed budget, ad valorem**  
19 **property tax levy, and property tax rate for that calendar year to**  
20 **the local government tax control board established by section 11 of**  
21 **this chapter before the tax levy is advertised. The local government**  
22 **tax control board shall then review and make a recommendation**  
23 **to the department of local government finance on the borough's**  
24 **budget, ad valorem property tax levy, and property tax rate for**  
25 **that calendar year. The department of local government finance**  
26 **shall make a final determination of the borough's budget, ad**  
27 **valorem property tax levy, and property tax rate for that calendar**  
28 **year. In making the determinations required under this subsection,**  
29 **the department of local government finance shall consider the**  
30 **budgets, ad valorem property tax levies, and property tax rates for**  
31 **the immediately preceding calendar year of the town and township**  
32 **that were consolidated to form the borough.**

33 SECTION 12. IC 6-3.5-4-13 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) In the case of a  
35 county that does not contain a consolidated city of the first class, the  
36 county treasurer shall deposit the surtax revenues in a fund to be known  
37 as the "\_\_\_\_\_ County Surtax Fund".

38 (b) Before the twentieth day of each month, the county auditor shall  
39 allocate the money deposited in the county surtax fund during that  
40 month among the county and the cities, **boroughs,** and ~~the~~ towns in the  
41 county. The county auditor shall allocate the money to counties, cities,  
42 **boroughs,** and towns under IC 8-14-2-4(c)(1) through

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1 IC 8-14-2-4(c)(3).

2 (c) Before the twenty-fifth day of each month, the county treasurer  
3 shall distribute to the county and the cities, **boroughs**, and towns in the  
4 county the money deposited in the county surtax fund during that  
5 month. The county treasurer shall base the distribution on allocations  
6 made by the county auditor for that month under subsection (b).

7 (d) A county, city, **borough**, or town may only use the surtax  
8 revenues it receives under this section to construct, reconstruct, repair,  
9 or maintain streets and roads under its jurisdiction.

10 SECTION 13. IC 6-3.5-4-14 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) On or before  
12 August 1 of each year, the auditor of a county that contains a  
13 consolidated city of the first class and that has adopted the surtax shall  
14 provide the county council with an estimate of the surtax revenues to  
15 be received by the county during the next calendar year. The county  
16 shall show the estimated surtax revenues in its budget estimate for the  
17 calendar year.

18 (b) On or before August 1 of each year, the auditor of a county that  
19 does not contain a consolidated city of the first class and that has  
20 adopted the surtax shall provide the county and each city, **borough**,  
21 and town in the county with an estimate of the surtax revenues to be  
22 distributed to that unit during the next calendar year. The county, city,  
23 **borough**, or town shall show the estimated surtax revenues in its  
24 budget estimate for the calendar year.

25 SECTION 14. IC 6-3.5-5-15 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) In the case of a  
27 county that does not contain a consolidated city, the county treasurer  
28 shall deposit the wheel tax revenues in a fund to be known as the  
29 "County Wheel Tax Fund".

30 (b) Before the twentieth day of each month, the county auditor shall  
31 allocate the money deposited in the county wheel tax fund during that  
32 month among the county and the cities, **boroughs**, and ~~the~~ towns in the  
33 county. The county auditor shall allocate the money to counties, cities,  
34 **boroughs**, and towns under IC 8-14-2-4(c)(1) through  
35 IC 8-14-2-4(c)(3).

36 (c) Before the twenty-fifth day of each month, the county treasurer  
37 shall distribute to the county and the cities, **boroughs**, and towns in the  
38 county the money deposited in the county wheel tax fund during that  
39 month. The county treasurer shall base the distribution on allocations  
40 made by the county auditor for that month under subsection (b).

41 (d) A county, city, **borough**, or town may only use the wheel tax  
42 revenues it receives under this section:

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(1) to construct, reconstruct, repair, or maintain streets and roads under its jurisdiction; or

(2) as a contribution to an authority established under IC 36-7-23.

SECTION 15. IC 6-3.5-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) On or before August 1 of each year, the auditor of a county that contains a consolidated city of the first class and that has adopted the wheel tax shall provide the county council with an estimate of the wheel tax revenues to be received by the county during the next calendar year. The county shall show the estimated wheel tax revenues in its budget estimate for the calendar year.

(b) On or before August 1 of each year, the auditor of a county that does not contain a consolidated city of the first class and that has adopted the wheel tax shall provide the county and each city, **borough**, and town in the county with an estimate of the wheel tax revenues to be distributed to that unit during the next calendar year. The county, city, **borough**, or town shall show the estimated wheel tax revenues in its budget estimate for the calendar year.

SECTION 16. IC 6-3.5-6-17.5, AS AMENDED BY P.L.178-2002, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.5. (a) This section does not apply to a county containing a consolidated city.

(b) The county income tax council of any county may adopt an ordinance to reduce the required six (6) month balance of that county's special account to a three (3) month balance for that county on January 1 of a year.

(c) To reduce the balance a county income tax council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The \_\_\_\_\_ County Income Tax Council elects to reduce the required county income tax special account balance from a six (6) month balance to a three (3) month balance."

(d) On or before December 31, the budget agency shall make the following calculation:

STEP ONE: Determine the cumulative balance in a county's account established under section 16 of this chapter.

STEP TWO: Divide the amount estimated under section 17(b) of this chapter before any adjustments are made under section 17(c) or 17(d) of this chapter by twelve (12).

STEP THREE: Multiply the STEP TWO amount by three (3).

STEP FOUR: Subtract the amount determined in STEP THREE from the amount determined in STEP ONE.

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(e) The amount determined in STEP FOUR of subsection (d) shall be distributed to the county auditor in January of the ensuing calendar year.

(f) The county auditor shall distribute the amount received under subsection (e) to the civil taxing units in the same manner as the certified distribution is distributed and not later than thirty (30) days after the county auditor receives the amount.

(g) The civil taxing units may use the amounts received under subsection (f) as follows:

(1) For the later of 1995 or the first calendar year in which the county adopts an ordinance under subsection (c) and:

(A) for each civil taxing unit that is a county, city, **borough**, or town, for the purposes authorized under IC 36-9-14.5-2 or IC 36-9-15.5-2 (whichever applies and regardless of whether the civil taxing unit has established a cumulative capital development fund under IC 36-9-14.5 or IC 36-9-15.5); and

(B) for each civil taxing unit that is a township, **borough**, or a special taxing district, for any item for which the civil taxing unit may issue a general obligation bond.

(2) For each year after the year to which subdivision (1) applies and for all civil taxing units, for any item for which the particular civil taxing unit's certified distribution may be used.

SECTION 17. IC 6-3.5-7-12, AS AMENDED BY P.L.192-2002(ss), SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) Except as provided in sections 23, 25, and 26 of this chapter, the county auditor shall distribute in the manner specified in this section the certified distribution to the county.

(b) Except as provided in subsections (c) and (h) and sections 15 and 25 of this chapter, the amount of the certified distribution that the county and each city, ~~or~~ town, **or borough** in a county is entitled to receive during May and November of each year equals the product of the following:

(1) The amount of the certified distribution for that month; multiplied by

(2) A fraction. The numerator of the fraction equals the sum of the following:

(A) Total property taxes that are first due and payable to the county, city, ~~or~~ town, **or borough** during the calendar year in which the month falls; plus

(B) For a county, an amount equal to:

(i) the property taxes imposed by the county in 1999 for the

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1 county's welfare fund and welfare administration fund; plus  
 2 (ii) after December 31, 2004, the greater of zero (0) or the  
 3 difference between the county hospital care for the indigent  
 4 property tax levy imposed by the county in 2004, adjusted  
 5 each year after 2004 by the statewide average assessed value  
 6 growth quotient described in IC 12-16-14-3, minus the  
 7 current uninsured parents program property tax levy  
 8 imposed by the county.

9 The denominator of the fraction equals the sum of the total property  
 10 taxes that are first due and payable to the county and all cities, ~~and~~  
 11 towns, **and boroughs** of the county during the calendar year in which  
 12 the month falls, plus an amount equal to the property taxes imposed by  
 13 the county in 1999 for the county's welfare fund and welfare  
 14 administration fund, and after December 31, 2004, the greater of zero  
 15 (0) or the difference between the county hospital care for the indigent  
 16 property tax levy imposed by the county in 2004, adjusted each year  
 17 after 2004 by the statewide average assessed value growth quotient  
 18 described in IC 12-16-14-3, minus the current uninsured parents  
 19 program property tax levy imposed by the county.

20 (c) This subsection applies to a county council or county income tax  
 21 council that imposes a tax under this chapter after June 1, 1992. The  
 22 body imposing the tax may adopt an ordinance before July 1 of a year  
 23 to provide for the distribution of certified distributions under this  
 24 subsection instead of a distribution under subsection (b). The following  
 25 apply if an ordinance is adopted under this subsection:

- 26 (1) The ordinance is effective January 1 of the following year.  
 27 (2) Except as provided in sections 25 and 26 of this chapter, the  
 28 amount of the certified distribution that the county and each city,  
 29 ~~and town, and borough~~ in the county is entitled to receive during  
 30 May and November of each year equals the product of:  
 31 (A) the amount of the certified distribution for the month;  
 32 multiplied by  
 33 (B) a fraction. For a city, ~~or~~ town, **or borough**, the numerator  
 34 of the fraction equals the population of the city, ~~or~~ the town, **or**  
 35 **the borough**. For a county, the numerator of the fraction  
 36 equals the population of the part of the county that is not  
 37 located in a city, ~~or~~ town, **or borough**. The denominator of the  
 38 fraction equals the sum of the population of all cities, ~~and~~  
 39 towns, **and boroughs** located in the county and the population  
 40 of the part of the county that is not located in a city, ~~or~~ town,  
 41 **or borough**.  
 42 (3) The ordinance may be made irrevocable for the duration of

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specified lease rental or debt service payments.

(d) The body imposing the tax may not adopt an ordinance under subsection (c) if, before the adoption of the proposed ordinance, any of the following have pledged the county economic development income tax for any purpose permitted by IC 5-1-14 or any other statute:

(1) The county.

(2) A city, ~~or~~ town, **or borough** in the county.

(3) A commission, a board, a department, or an authority that is authorized by statute to pledge the county economic development income tax.

(e) The department of local government finance shall provide each county auditor with the fractional amount of the certified distribution that the county and each city, ~~or~~ town, **or borough** in the county is entitled to receive under this section.

(f) Money received by a county, city, ~~or~~ town, **or borough** under this section shall be deposited in the unit's economic development income tax fund.

(g) Except as provided in subsection (b)(2)(B), in determining the fractional amount of the certified distribution the county and its cities, ~~and~~ towns, ~~and~~ **boroughs** are entitled to receive under subsection (b) during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.

(h) In a county having a consolidated city, only the consolidated city is entitled to the certified distribution, subject to the requirements of sections 15, 25, and 26 of this chapter.

SECTION 18. IC 6-3.5-7-15, AS AMENDED BY P.L.192-2002(ss), SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) The executive of a county, city, **borough**, or town may, subject to the use of the certified distribution permitted under sections 25 and 26 of this chapter:

(1) adopt a capital improvement plan specifying the uses of the revenues to be received under this chapter; or

(2) designate the county or a city, **borough**, or town in the county as the recipient of all or a part of its share of the distribution.

(b) If a designation is made under subsection (a)(2), the county treasurer shall transfer the share or part of the share to the designated unit unless that unit does not have a capital improvement plan.

(c) A county, city, **borough**, or town that fails to adopt a capital improvement plan may not receive:

(1) its fractional amount of the certified distribution; or

(2) any amount designated under subsection (c)(2);

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1 for the year or years in which the unit does not have a plan. The county  
 2 treasurer shall retain the certified distribution and any designated  
 3 distribution for such a unit in a separate account until the unit adopts  
 4 a plan. Interest on the separate account becomes part of the account. If  
 5 a unit fails to adopt a plan for a period of three (3) years, then the  
 6 balance in the separate account shall be distributed to the other units in  
 7 the county based on property taxes first due and payable to the units  
 8 during the calendar year in which the three (3) year period expires.

9 (d) A capital improvement plan must include the following  
 10 components:

11 (1) Identification and general description of each project that  
 12 would be funded by the county economic development income  
 13 tax.

14 (2) The estimated total cost of the project.

15 (3) Identification of all sources of funds expected to be used for  
 16 each project.

17 (4) The planning, development, and construction schedule of each  
 18 project.

19 (e) A capital improvement plan:

20 (1) must encompass a period of no less than two (2) years; and

21 (2) must incorporate projects the cost of which is at least  
 22 seventy-five percent (75%) of the fractional amount certified  
 23 distribution expected to be received by the county, city, **borough**,  
 24 or town in that period of time.

25 (f) In making a designation under subsection (a)(2), the executive  
 26 must specify the purpose and duration of the designation. If the  
 27 designation is made to provide for the payment of lease rentals or bond  
 28 payments, the executive may specify that the designation and its  
 29 duration are irrevocable.

30 SECTION 19. IC 6-3.5-7-16, AS AMENDED BY P.L.192-2002(ss),  
 31 SECTION 125, IS AMENDED TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Except as provided in  
 33 subsections (b) and (c), on May 1 of each year, one-half (1/2) of each  
 34 county's certified distribution for a calendar year shall be distributed  
 35 from its account established under section 10 of this chapter to the  
 36 county treasurer. The other one-half (1/2) shall be distributed on  
 37 November 1 of that calendar year.

38 (b) This subsection applies to a county having a population of more  
 39 than one hundred forty-five thousand (145,000) but less than one  
 40 hundred forty-eight thousand (148,000). Notwithstanding section 11 of  
 41 this chapter, the initial certified distribution certified for a county under  
 42 section 11 of this chapter shall be distributed to the county treasurer

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from the account established for the county under section 10 of this chapter according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county initially adopts an ordinance under section 2 of this chapter:

(1) One-fourth (1/4) on October 1 of the year in which the ordinance was adopted.

(2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance was adopted.

(3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.

(4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.

The county auditor and county treasurer shall distribute amounts received under this subsection to a county and each city, **borough**, or town in the county in the same proportions as are set forth in section 12 of this chapter. Certified distributions made to the county treasurer for calendar years following the eighteen (18) month period described in this subsection shall be made as provided in subsection (a).

(c) Before July 1 of each year, a county's certified distribution for additional homestead credits under section 25 or 26 of this chapter for the year shall be distributed from the county's account established under section 10 of this chapter.

(d) All distributions from an account established under section 10 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 20. IC 7.1-4-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. ~~Distribution of Excise Revenue to Cities and Towns~~. The treasurer of the state shall set aside for allocation to the cities, **boroughs**, and towns of this state, fifty percent (50%) of the gross amount of the revenue deposited in the general fund in accordance with the provisions of ~~IC 1971, 7.1-4-7-5~~. **section 5 of this chapter.**

SECTION 21. IC 7.1-4-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. ~~Basis of Allocation to Cities and Towns~~. The sum set aside in accordance with the provisions of ~~IC 1971, 7.1-4-7-7~~, **section 7 of this chapter** shall be allocated to a city, **borough**, or town upon the basis that the population of that city, **borough**, or town bears to the total population of all cities, **boroughs**, and towns of this state.

SECTION 22. IC 7.1-4-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. ~~Distribution to Cities and Towns~~. Sixty-six and two-thirds percent (66 2/3%) of the monies

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1 in the excise fund shall, upon warrant of the state auditor, be paid into  
 2 the general fund of the treasury of the city, **borough**, or town in which  
 3 the retailer's or dealer's licensed premises are located. The money shall  
 4 be paid to the treasurer of the county in which the retailer's or dealer's  
 5 premises are located if they are located outside the corporate limits of  
 6 a city, **borough**, or town.

7 SECTION 23. IC 7.1-4-9-8 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. ~~Basis of Distribution~~  
 9 ~~and Use~~. The monies in the excise fund that is distributed to a county,  
 10 city, **borough**, or town shall be distributed in direct proportion to the  
 11 amount of retailer's or dealer's annual license fees paid in respect to  
 12 licensed premises situated in a city, **borough**, or town, or situated  
 13 within a county but outside the corporate limits of a city, **borough**, or  
 14 town. The money distributed shall be credited to the general fund of the  
 15 county, city, **borough**, or town and the funds shall be budgeted  
 16 according to law.

17 SECTION 24. IC 7.1-4-9-9 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~Time of Distribution~~.  
 19 The distribution of the excise fund to be paid into the general fund of  
 20 a county, city, **borough**, or town shall be distributed by the state  
 21 treasurer semi-annually on the first day of June and the first day of  
 22 December of each year. The auditor of the state is authorized to draw  
 23 his warrants to the treasurers of the several governmental subdivisions  
 24 when the distribution is presented to him.

25 SECTION 25. IC 8-1-2.2-2 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The definitions  
 27 in this section apply throughout this chapter.

28 (b) "Bonds" means electric utility revenue bonds, notes, and other  
 29 evidences of indebtedness of a municipality or a joint agency issued  
 30 under the provisions of this chapter.

31 (c) "Cost" or "cost of a project" means but may not be limited to the  
 32 cost of acquisition, construction, reconstruction, improvement,  
 33 enlargement, betterment, extension, decommissioning, or disposal of  
 34 any project or part thereof, including:

- 35 (1) the cost of studies, plans, specifications, surveys, and
- 36 estimates of costs and revenues relating thereto;
- 37 (2) the cost of land, land rights, rights-of-way and easements,
- 38 water rights, fees, permits, approvals, licenses, certificates,
- 39 franchises, and the preparation of applications thereof;
- 40 (3) administrative, legal, engineering, and inspection expenses;
- 41 (4) financing fees, expenses, and costs;
- 42 (5) working capital;



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(6) initial fuel costs;

(7) interest on the bonds during the period of construction and for such reasonable period thereafter as may be determined by the issuing municipality or joint agency;

(8) establishment of reserves for the payment of debt service, for renewals and replacements, for working capital, for operating expenses, and for any other purposes deemed reasonable and proper; and

(9) all other expenditures of the issuing municipality or joint agency incidental, necessary, or convenient to the acquisition, construction, reconstruction, improvement, enlargement, betterment, extension, decommissioning, or disposal of any project and the placing of the same in operation.

(d) "Governing body" means the legislative body of a city or town or commissioners of a joint agency.

(e) "Joint agency" means an agency created by two (2) or more municipalities pursuant to section 8 of this chapter.

(f) "Municipality" means:

(1) a city or town in the state or any board, agency, or commission thereof owning and operating on January 1, 1980, an electric utility which furnishes retail electric service to the public; and

**(2) a borough that after June 30, 2003, consolidates into its boundaries a town, a board, an agency, or a commission that is described in subdivision (1).**

(g) "Project" means any plant, works, system, or facilities, and other real and personal property of any nature whatsoever necessary or convenient in the generation, transmission, transformation, purchase, sale, exchange, or interchange of electric power and energy or steam, or the development, production, manufacture, procurement, handling, storage, fabrication, enrichment, processing, or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water, by any means whatsoever or any interest therein or any rights to the use, output, or capacity thereof. A transmission contract entered into under section 9(a)(14) of this chapter is not a project.

(h) "Public utility" means any corporation, company, limited liability company, partnership, or other form of legal entity, individual, association of individuals, or public agency organized under the laws of Indiana or another state of the United States authorized to own, operate, or control any plant or equipment for the generation, transmission, or distribution of electric power and energy and to sell electric power and energy to:

(1) the public;

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(2) public or municipally owned utilities (as defined in IC 8-1-2);

or

(3) cooperatives.

(i) "State" means the state of Indiana.

SECTION 26. IC 8-1-2.3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Electricity supplier" means a public utility, a local district rural electric membership corporation, or a municipally owned electric utility which furnishes retail electric service to the public.

(c) "Retail electric service" means electric service furnished to a customer for ultimate consumption, but does not include wholesale electric service furnished by an electricity supplier to another electricity supplier for resale.

(d) "Existing electric distribution line" means an electric conductor which on January 1, 1979, was being used for the distribution or delivery of retail electric service.

(e) "Assigned service area" means the designated geographic area within the boundaries of which an electricity supplier is authorized to furnish all retail electric service, as provided in this chapter.

(f) "Municipality" means a city, ~~or~~ town, **or borough.**

(g) "Existing municipal limits" means the corporate boundaries of any municipality as such boundaries existed on January 1, 1979.

SECTION 27. IC 8-1-13-3, AS AMENDED BY P.L.198-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The following terms whenever used or referred to in this chapter have the following meanings, unless a different meaning clearly appears from the context:

(a) "Corporation" means a corporation formed under this chapter.

(b) "Municipality" means any county, city, ~~or~~ town, **or borough** of this state.

(c) "Person" or "inhabitant" means natural persons, firms, associations, corporations, limited liability companies, business trusts, partnerships, and bodies politic.

(d) "Energy" means all electric energy no matter how generated or produced.

(e) "System" means any plant, works, system, facilities, or properties, together with all parts thereof and appurtenances thereto, used or useful in the furnishing of services.

(f) "Obligations" means negotiable bonds, interim certificates or receipts, notes, debentures, and all other evidences of indebtedness, either issued or the payment thereof assumed by the corporation.

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(g) "Law" means any law of this state.

(h) "Federal agency" means the United States of America, the President of the United States of America, the federal emergency administrator of public works and any other authority, agency, or instrumentality of the United States of America, heretofore or hereafter created.

(i) "Acquire" means construction, obtaining by purchase, lease, devise, or gift, the exercise of the right of eminent domain in the manner provided by law for the exercise thereof, or other mode of acquisition.

(j) "Improve" means to construct, reconstruct, improve, extend, enlarge, alter, better, or repair.

(k) "Board" means board of directors of a corporation formed under this chapter.

(l) "Member" means each person signing the articles of incorporation of a corporation and each person admitted to membership therein pursuant to law or the corporation's bylaws.

(m) "Service" or "services" means the furnishing of energy or other utility services incidental to development, operation, or maintenance of utility infrastructure and the rendering of related engineering, financial, accounting, economic development, or community development services, or educational services and related materials or equipment assisting in the establishment and maintenance of better communication between corporations and their members, or any of the same.

(n) As used in this chapter, the word "territory" when modified by the phrase "already being served with energy by any public or municipally owned utility" shall not be construed to include territory served by an electric distribution line or lines:

(1) acquired prior to March 1, 1980, from a public or municipally owned utility by a corporation formed or admitted to do business in this state under this chapter; or

(2) acquired on or after March 1, 1980, from a public or municipally owned utility by such a corporation;

if the Indiana utility regulatory commission, after public hearing, finds that public convenience and necessity would be best served by, and authorizes, such acquisition, and if the electric distribution line or lines, together with all other facilities proposed to be purchased, have a reproduction cost new, less depreciation, of not more than three hundred thousand dollars (\$300,000) and are not located in whole or in part in any city or town having a population in excess of one thousand five hundred (1,500); however, the dollar and population

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1 limitations do not apply if the acquisition is agreed to in all respects by  
 2 all affected electricity suppliers and is approved by the commission.

3 (o) As used in this chapter, "commission" refers to the Indiana  
 4 utility regulatory commission.

5 SECTION 28. IC 8-1-22.5-1 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this  
 7 chapter, unless otherwise provided:

8 (a) The term "gas" means natural gas, flammable gas, or gas which  
 9 is toxic or corrosive.

10 (b) The term "transportation of gas" means the gathering,  
 11 transmission or distribution of gas by pipeline or the storage of gas;  
 12 except that it shall not include the gathering of gas in those rural  
 13 locations which lie outside the limits of any incorporated or  
 14 unincorporated city, town, village or any other designated residential  
 15 or commercial area such as a subdivision, a business or shopping  
 16 center, a community development or any similar populated area which  
 17 the commission may define as a nonrural area.

18 (c) The term "pipeline" means all parts of those physical facilities  
 19 through which gas moves in transportation, including pipe, valves, and  
 20 other appurtenances attached to pipe, compressor units, metering  
 21 stations, regulator stations, delivery stations, holders, and fabricated  
 22 assemblies, but excluding motor vehicles of all kinds and pipelines  
 23 serving not less than ten (10) customers with petroleum gas from a  
 24 common source.

25 (d) The term "pipeline facilities" means and includes, without  
 26 limitation, new and existing pipelines, rights-of-way and any  
 27 equipment, facility or building used in the transportation of gas or in  
 28 the treatment of gas during the course of transportation, but excluding  
 29 motor vehicles of all kinds and pipelines serving not less than ten (10)  
 30 customers with petroleum gas from a common source.

31 (e) The term "person" means any individual, firm, joint venture,  
 32 partnership, corporation, limited liability company, association,  
 33 municipality, cooperative association, or joint stock association, and  
 34 includes any trustee, receiver, assignee, or personal representative  
 35 thereof.

36 (f) The term "municipality" means a city, county, **borough**, or any  
 37 political subdivision of the state.

38 (h) The term "division" means the pipeline safety division to be  
 39 established under this chapter.

40 (i) The term "maximum allowable operating pressure" means the  
 41 maximum pressure at which a pipeline or a segment of a pipeline may  
 42 be operated.

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1 SECTION 29. IC 8-1.5-1-8 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. "Municipality"  
 3 means city, ~~or~~ town, **or borough.**

4 SECTION 30. IC 8-14-1-1 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this  
 6 chapter:

7 (1) "Motor vehicle highway account" means the account of the  
 8 general fund of the state known as the "motor vehicle highway  
 9 account" to which is credited collections from motor vehicle  
 10 registration fees, licenses, driver's and chauffeur's license fees,  
 11 gasoline taxes, auto transfer fees, certificate of title fees, weight  
 12 taxes or excise taxes and all other similar special taxes, duties or  
 13 excises of all kinds on motor vehicles, trailers, motor vehicle fuel  
 14 or motor vehicle owners or operators.

15 (2) The term "department" refers to the Indiana department of  
 16 transportation.

17 (3) The term "highways" includes roadway, rights of way, bridges,  
 18 drainage structures, signs, guard rails, protective structures in  
 19 connection with highways, drains, culverts, and bridges and the  
 20 substructure and superstructure of bridges and approaches thereto  
 21 and streets and alleys of cities or towns.

22 (4) The term "construction" means the planning, supervising,  
 23 inspecting, actual building, draining, and all expenses incidental  
 24 to the construction of a highway.

25 (5) The term "reconstruction" means a widening or a rebuilding  
 26 of the highway or any portion thereof.

27 (6) The term "maintenance" when used in reference to cities,  
 28 towns and counties as applied to that part of the highway other  
 29 than bridges, means the constant making of needed repairs, to  
 30 preserve a smooth surfaced highway, adequately drained, marked  
 31 and guarded by protective structures for public safety and, as to  
 32 bridges, means the constant making of needed repairs to preserve  
 33 a smooth surfaced highway thereon and the safety and  
 34 preservation of the bridge and its approaches, together with the  
 35 substructure and superstructure thereof; and such term also means  
 36 and includes the acquisition and use, in any manner, of all needed  
 37 equipment, fuel, materials and supplies essential and incident  
 38 thereto.

39 (7) The term "vehicle registration" means the number of vehicles  
 40 subject to registration under IC 9-18 which are registered  
 41 thereunder, and, when used with respect to the state, shall mean  
 42 the number of vehicles registered in the state and when used in

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respect to a county, city, **borough**, or town shall mean the number of vehicles registered by owners resident in the county, city, **borough**, or town.

SECTION 31. IC 8-14-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The money collected for the motor vehicle highway account fund and remaining after refunds and the payment of all expenses incurred in the collection thereof, and after the deduction of the amount appropriated to the department for traffic safety and after the deduction of one-half (1/2) of the amount appropriated for the state police department, shall be allocated to and distributed among the department and subdivisions designated as follows:

(1) Of the net amount in the motor vehicle highway account the auditor of state shall set aside for the cities, **boroughs**, and towns of the state fifteen percent (15%) thereof. This sum shall be allocated to the cities, **boroughs**, and towns upon the basis that the population of each city, **borough**, and town bears to the total population of all the cities, **boroughs**, and towns and shall be used for the construction or reconstruction and maintenance of streets and alleys and shall be annually budgeted as now provided by law. However, no part of such sum shall be used for any other purpose than for the purposes defined in this chapter. If any funds allocated to any city, **borough**, or town shall be used by any officer or officers of such city, **borough**, or town for any purpose or purposes other than for the purposes as defined in this chapter, such officer or officers shall be liable upon their official bonds to such city, **borough**, or town in such amount so used for other purposes than for the purposes as defined in this chapter, together with the costs of said action and reasonable attorney fees, recoverable in an action or suit instituted in the name of the state of Indiana on the relation of any taxpayer or taxpayers resident of such city, **borough**, or town. A monthly distribution thereof of funds accumulated during the preceding month shall be made by the auditor of state.

(2) Of the net amount in the motor vehicle highway account, the auditor of state shall set aside for the counties of the state thirty-two percent (32%) thereof. However, as to the allocation to cities, **boroughs**, and towns under subdivision (1), and as to the allocation to counties under this subdivision in the event that the amount in the motor vehicle highway account fund remaining after refunds and the payment of all expenses incurred in the collection thereof and after deduction of any amount appropriated

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by the general assembly for public safety and policing shall be less than twenty-two million six hundred and fifty thousand dollars (\$22,650,000), in any fiscal year then the amount so set aside in the next calendar year for distributions to counties shall be reduced fifty-four percent (54%) of such deficit and the amount so set aside for distribution in the next calendar year to cities, **boroughs**, and towns shall be reduced thirteen percent (13%) of such deficit. Such reduced distributions shall begin with the distribution January 1 of each year.

(3) The amount set aside for the counties of the state under the provisions of subdivision (2) shall be allocated monthly upon the following basis:

(A) Five percent (5%) of the amount allocated to the counties to be divided equally among the ninety-two (92) counties.

(B) Sixty-five percent (65%) of the amount allocated to the counties to be divided on the basis of the ratio of the actual miles, now traveled and in use, of county roads in each county to the total mileage of county roads in the state, which shall be annually determined, accurately, by the department.

(C) Thirty percent (30%) of the amount allocated to the counties to be divided on the basis of the ratio of the motor vehicle registrations of each county to the total motor vehicle registration of the state.

All money so distributed to the several counties of the state shall constitute a special road fund for each of the respective counties and shall be under the exclusive supervision and direction of the board of county commissioners in the construction, reconstruction, maintenance, or repair of the county highways or bridges on such county highways within such county.

(4) Each month the remainder of the net amount in the motor vehicle highway account shall be credited to the state highway fund for the use of the department.

(5) Money in the fund may not be used for any toll road or toll bridge project.

(6) Notwithstanding any other provisions of this section, money in the motor vehicle highway account fund may be appropriated to the Indiana department of transportation from the forty-seven percent (47%) distributed to the political subdivisions of the state to pay the costs incurred by the department in providing services to those subdivisions.

(7) Notwithstanding any other provisions of this section or of IC 8-14-8, for the purpose of maintaining a sufficient working

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balance in accounts established primarily to facilitate the matching of federal and local money for highway projects, money may be appropriated to the Indiana department of transportation as follows:

(A) One-half (1/2) from the forty-seven percent (47%) set aside under subdivisions (1) and (2) for counties and for those cities, **boroughs**, and towns with a population greater than five thousand (5,000).

(B) One-half (1/2) from the distressed road fund under IC 8-14-8.

SECTION 32. IC 8-14-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) A written agreement between the department and a city, **borough**, town, or county under IC 8-23-2-5, or a similar government cooperative statute, may provide for a mandatory transfer of funds by the auditor of state under this section if one (1) of the parties becomes more than sixty (60) days late in making a payment required by the agreement.

(b) To obtain a mandatory transfer of funds, the party to whom the funds were to be paid under terms of the written agreement must certify in writing to the auditor of state:

- (1) that a written agreement between the parties authorizes the mandatory transfer of funds as provided in subsection (a);
- (2) that the owing party was notified in writing of the amount owed;
- (3) that the payment is more than sixty (60) days past due;
- (4) the names of the parties; and
- (5) the amount of the payment due.

(c) Upon receipt of a certificate as specified in subsection (b), the auditor of state shall:

- (1) immediately notify the delinquent party of the claim; and
- (2) if proof of payment is not furnished to the auditor of state within thirty (30) days after the delinquent party has been notified, transfer the unpaid amount from the delinquent party's allocations from the motor vehicle highway account to the other party. Transfers shall be made until the unpaid amount has been paid in full under the terms of the agreement.

SECTION 33. IC 8-14-1-12 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12. (a) This section applies if a borough has not elected to assume responsibility for the maintenance, repair, construction, and improvement of roads and streets within its jurisdiction under IC 36-6.5-13.**

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(b) A borough may not receive any distributions under this chapter for road, street, highway, and bridge maintenance. The county within which the borough is located shall receive any distributions allocated to the borough that the borough would receive if the borough were responsible for the roads and streets in the borough's jurisdiction.

(c) The auditor of state shall transfer any funds allocated to the borough under this chapter to the county within which the borough is located.

SECTION 34. IC 8-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

(1) Primary highway system special account means the account of the state known as the "primary highway system special account" to which is credited monthly fifty-five percent (55%) of the money deposited in the highway, road, and street fund.

(2) Local road and street account means the account of the state known as the "local road and street account" to which is credited monthly forty-five percent (45%) of the money deposited in the highway, road, and street fund.

(3) The term "department" refers to the Indiana department of transportation created under IC 8-23-2.

(4) The term "primary highways" shall mean that portion of the federal-aid highway system designated by the department and approved by the United States department of transportation as being the state "primary highway system".

(5) The term "construction" shall mean both construction and reconstruction to a degree that new, supplementary, or substantially improved traffic service is provided, and significant geometric or structural improvements are effected.

(6) "Arterial road system" shall mean the system of roads including bridges in each county of Indiana, under the jurisdiction of the board of county commissioners, or successor body, including a department of transportation of a consolidated city, designated as such by the board under IC 8-23-4-3, but not including local county roads.

(7) "Local county roads" shall mean all county roads and bridges which are not designated as being in the arterial road system.

(8) "Arterial street system" means the system of streets, including bridges in each city, **borough**, or town in Indiana, under the jurisdiction of municipal street authorities or successor bodies, including a department of transportation of a consolidated city,

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designated as such by the board under IC 8-23-4-4, but not including local streets.

(9) "Local streets" shall mean all city, **borough**, and town streets and bridges which are not designated as being in the arterial street system in each city, **borough**, or town.

(10) "Resurfacing" means the placement of additional pavement layers (including protective systems for bridge decks) over the existing (or restored or rehabilitated) roadway or bridge deck surface to provide additional strength or to improve serviceability for a substantial time period.

(11) "Restoration and rehabilitation" means work required to return the existing structure (roadway pavement or bridge deck) to a suitable condition for an additional stage of construction (bridge deck protective system or resurfacing) or to a suitable condition to perform satisfactorily for a substantial time period.

SECTION 35. IC 8-14-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The auditor of state shall establish a special account to be called the "local road and street account" and credit this account monthly with forty-five percent (45%) of the money deposited in the highway road and street fund.

(b) The auditor shall distribute to units of local government money from this account each month.

(c) The auditor of state shall allocate to each county the money in this account on the basis of the ratio of each county's passenger car registrations to the total passenger car registrations of the state. The auditor shall further determine the suballocation between the county and the cities, **boroughs**, and **towns** within the county as follows:

(1) In counties having a population of more than fifty thousand (50,000), sixty percent (60%) of the money shall be distributed on the basis of the population of the city, **borough**, or town as a percentage of the total population of the county and forty percent (40%) distributed on the basis of the ratio of city, **borough**, and town street mileage to county road mileage.

(2) In counties having a population of fifty thousand (50,000) or less, twenty percent (20%) of the money shall be distributed on the basis of the population of the city, **borough**, or town as a percentage of the total population of the county and eighty percent (80%) distributed on the basis of the ratio of city, **borough**, and town street mileage to county road mileage.

(3) For the purposes of allocating funds as provided in this section, towns which become incorporated as a town between the effective dates of decennial censuses shall be eligible for

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allocations upon the effectiveness of a corrected population count for the town under IC 1-1-3.5.

(4) Money allocated under the provisions of this section to counties containing a consolidated city shall be credited or allocated to the department of transportation of the consolidated city.

(d) Each month the auditor of state shall inform the department of the amounts allocated to each unit of local government from the local road and street account.

SECTION 36. IC 8-14-2-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8. (a) This section applies if a borough has not elected to assume responsibility for the maintenance, repair, construction, and improvement of roads and streets within its jurisdiction under IC 36-6.5-13.**

**(b) A borough may not receive any distributions under this chapter for road, street, highway, and bridge maintenance. The county within which the borough is located shall receive any distributions allocated to the borough that the borough would receive if the borough were responsible for the roads and streets in the borough's jurisdiction.**

**(c) The auditor of state shall transfer any funds allocated to the borough under this chapter to the county within which the borough is located.**

SECTION 37. IC 8-16-3-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. As used in this chapter:

(1) "Bridge" means any structure designed to carry vehicular traffic over or under an obstacle to the normal flow of traffic and including any grade separation, culvert, or approach to a bridge.

(2) "Approach" means any part of a road or street which is required to make a bridge a viable part of a county road or city street system but which does not extend more than five hundred (500) feet from the bridge.

(3) "Construction" means both construction and reconstruction to a degree that new, supplementary, or substantially improved traffic service is provided and significant geometric or structural improvements are affected.

(4) "Cost" means all expenditures required to construct, maintain, or repair a bridge, including engineering, equipment, land acquisition, materials, contracts, and bond interest.

(5) "Municipal corporation" means a city, **borough**, or town.

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SECTION 38. IC 8-21-1-1 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The definitions  
in this section apply throughout this article.

(b) "Aeronautics" means:

- (1) transportation by aircraft;
- (2) the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes;
- (3) the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, landing fields, or other air navigation facilities; and
- (4) air instruction.

(c) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(d) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision of a government, including the government of any state but not including any government owned aircraft engaged in carrying persons or property for commercial purposes.

(e) "Civil aircraft" means any aircraft other than a public aircraft.

(f) "Airport" means any location either on land or water which is used for the landing and taking off of aircraft.

(g) "Department" refers to the Indiana department of transportation.

(h) "Landing field" means any airport which provides neither facilities nor services other than an area designated for the landing and taking off of aircraft.

(i) "Air navigation facility" means any facility other than one owned or controlled by the federal government, used in, available for use in, or designed for use in aid of air navigation, including:

- (1) airports;
- (2) landing fields;
- (3) any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or landing field; and
- (4) any combination of any or all of such facilities.

(j) "Air navigation" means the operation or navigation of aircraft in the air space over this state, or upon any airport or landing field within this state.

(k) "Operation of aircraft" or "operate aircraft" means the use of

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aircraft for the purpose of air navigation, and includes the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, is considered to be engaged in the operation of aircraft within the meaning of the Indiana statutes.

(l) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way and (excepting individuals employed outside the United States, any individual employed outside the United States, any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, and any individual performing inspection or mechanical duties in connection with aircraft owned or operated by the individual) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances and any individual who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator.

(m) "Air instruction" means the imparting of aeronautical information by any aeronautics instructor or in or by any air school or flying club.

(n) "Air school" means any person engaged in giving, or offering to give, instruction in aeronautics, either in flying or ground subjects, or both, for or without hire or reward, and advertising, representing, or professing to give or offer to give such instruction.

(o) "Aeronautics instructor" means an individual engaged in giving instruction, or offering to give instruction, in aeronautics, either in flying or ground subjects, or both, for hire or reward, without advertising such occupation, without calling the individual's facilities an air school or anything equivalent thereto, and without employing or using other instructors.

(p) "Flying club" means any person other than an individual, which, neither for profit nor reward, owns, leases, or uses one (1) or more aircraft for the purpose of instruction or pleasure, or both.

(q) "Person" means any individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or body politic. The term includes any trustee, receiver, assignee, or other similar representative.

(r) "State airway" means a route in the navigable air space over and above the lands or water of Indiana designated by the department as a route suitable for air navigation.

(s) "Navigable air space" means air space above the minimum

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altitudes of flight prescribed by Indiana laws or by rules of the department consistent with Indiana laws.

(t) "Municipality" means any county, city, ~~or~~ town, **or borough** of Indiana and any other political subdivision, public corporation, authority, or district in Indiana which is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports and other air navigation facilities.

(u) "Airport protection privileges" means easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of airports or landing fields, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of the airports and landing fields and the safe and efficient operation of airports and landing fields.

(v) "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or landing field or is otherwise hazardous to such landing or taking off.

(w) "CAB-certificated air carrier" means an air carrier which is operating under a valid certificate of public convenience and necessity issued by the Civil Aeronautics Board under Public Law 85-726, Title VI, Aug. 23, 1958, 72 Stat. 754, 49 U.S.C. 1371 as amended.

SECTION 39. IC 8-21-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Definitions:

"Municipality" means any political subdivision, district, **borough**, public corporation or authority in this state which is or may be authorized by law to acquire, establish, construct, maintain, improve or operate airports or other air navigation facilities.

"Public agency" and "sponsor" have the same meaning as set forth in the federal Airport and Airway Development Act of 1970 Pub.L. 91-258, as amended.

"Department" refers to the Indiana department of transportation.

(b) A municipality, whether acting alone, or jointly with another municipality, the state, or a public agency of another state, may not submit to the secretary of transportation of the United States a project application for an airport development grant under the Airport and Airway Development Act of 1970, as amended, unless the project and project application have been first approved by the department.

(c) Payment of federal participating funds for an airport development project in Indiana authorized under the Airport and Airway Development Act of 1970, as amended, shall be as follows:

(1) To the department when the state is a sponsor, or a joint

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1 sponsor with a municipality, of the project; or when the  
2 department has provided state funding for the project;

3 (2) To the municipality when the secretary of transportation of the  
4 United States and the municipality are sole funding sources for  
5 the project.

6 (d) When a municipality enters an agreement with the United States  
7 under the Airport and Airway Development Act of 1970, as amended,  
8 for an airport development project for which:

9 (1) the state is a joint sponsor; or

10 (2) the department has provided state financial assistance;  
11 the municipality shall designate in the agreement that payment of  
12 federal participating funds be made to the department acting as its  
13 agent, and enter into an agreement with the department appointing it to  
14 receive all federal participating funds as agent for the municipality.

15 (e) A municipality may appoint the department to be its agent for  
16 the receipt of federal participating funds in an airport development  
17 project if the municipality is not otherwise required to do so.

18 SECTION 40. IC 13-11-2-135 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 135. "Municipality"  
20 means a city, ~~or~~ town, **or borough.**

21 SECTION 41. IC 23-14-65-4 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. As used in this  
23 chapter, "municipality" means a city, ~~or~~ town, **or borough.**

24 SECTION 42. IC 32-24-2-2, AS ADDED BY P.L.2-2002,  
25 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2003]: Sec. 2. As used in this chapter, "municipality" means  
27 a city, ~~or~~ town, **or borough.**

28 SECTION 43. IC 34-6-2-110 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 110. "Political  
30 subdivision", for purposes of IC 34-13-3, means a:

31 (1) county;

32 (2) township;

33 (3) city;

34 (4) town;

35 **(5) borough;**

36 ~~(5)~~ **(6)** separate municipal corporation;

37 ~~(6)~~ **(7)** special taxing district;

38 ~~(7)~~ **(8)** state college or university;

39 ~~(8)~~ **(9)** city or county hospital;

40 ~~(9)~~ **(10)** school corporation;

41 ~~(10)~~ **(11)** board or commission of one (1) of the entities listed in  
42 subdivisions (1) through ~~(9)~~; **(10);**

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- 1       ~~(11)~~ **(12)** drug enforcement task force operated jointly by political  
 2       subdivisions;  
 3       ~~(12)~~ **(13)** community correctional service program organized  
 4       under IC 12-12-1; or  
 5       ~~(13)~~ **(14)** solid waste management district established under  
 6       IC 13-21 or IC 13-9.5-2 (before its repeal).

7       SECTION 44. IC 36-1-2-2.5 IS ADDED TO THE INDIANA CODE  
 8       AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 9       1, 2003]: **Sec. 2.5. "Borough" refers to a borough established under**  
 10      **IC 36-6.5.**

11      SECTION 45. IC 36-1-2-4 IS AMENDED TO READ AS  
 12      FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. "Clerk" means:

- 13       (1) clerk of the circuit court, for a county;  
 14       (2) county auditor, for a board of county commissioners or county  
 15       council;  
 16       (3) clerk of the city-county council, for a consolidated city;  
 17       **(4) borough clerk, for a borough;**  
 18       ~~(4)~~ **(5)** city clerk, for a second class city;  
 19       ~~(5)~~ **(6)** clerk-treasurer, for a third class city; or  
 20       ~~(6)~~ **(7)** clerk-treasurer, for a town.

21      SECTION 46. IC 36-1-2-5 IS AMENDED TO READ AS  
 22      FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. "Executive" means:

- 23       (1) board of commissioners, for a county not having a  
 24       consolidated city;  
 25       (2) mayor of the consolidated city, for a county having a  
 26       consolidated city;  
 27       (3) mayor, for a city;  
 28       **(4) borough president, for a borough;**  
 29       ~~(4)~~ **(5)** president of the town council, for a town;  
 30       ~~(5)~~ **(6)** trustee, for a township;  
 31       ~~(6)~~ **(7)** superintendent, for a school corporation; or  
 32       ~~(7)~~ **(8)** chief executive officer, for any other political subdivision.

33      SECTION 47. IC 36-1-2-6 IS AMENDED TO READ AS  
 34      FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. "Fiscal body" means:

- 35       (1) county council, for a county not having a consolidated city;  
 36       (2) city-county council, for a consolidated city or county having  
 37       a consolidated city;  
 38       (3) common council, for a city other than a consolidated city;  
 39       **(4) borough council, for a borough;**  
 40       ~~(4)~~ **(5)** town council, for a town;  
 41       ~~(5)~~ **(6)** township board, for a township; or  
 42       ~~(6)~~ **(7)** governing body or budget approval body, for any other

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1 political subdivision.

2 SECTION 48. IC 36-1-2-7 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. "Fiscal officer"  
4 means:

- 5 (1) auditor, for a county;
- 6 (2) controller, for a consolidated city or second class city;
- 7 **(3) controller, for a borough;**
- 8 ~~(3)~~ **(4)** clerk-treasurer, for a third class city;
- 9 ~~(4)~~ **(5)** clerk-treasurer, for a town; or
- 10 ~~(5)~~ **(6)** trustee, for a township.

11 SECTION 49. IC 36-1-2-9 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. "Legislative body"  
13 means:

- 14 (1) board of county commissioners, for a county not subject to
- 15 IC 36-2-3.5 or IC 36-3-1;
- 16 (2) county council, for a county subject to IC 36-2-3.5;
- 17 (3) city-county council, for a consolidated city or county having
- 18 a consolidated city;
- 19 (4) common council, for a city other than a consolidated city;
- 20 **(5) common council, for a borough;**
- 21 ~~(5)~~ **(6)** town council, for a town; or
- 22 ~~(6)~~ **(7)** township board, for a township.

23 SECTION 50. IC 36-1-2-11 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. "Municipality"  
25 means city, ~~or town, or borough.~~

26 SECTION 51. IC 36-1-2-16 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. "Safety board"  
28 means the board of public safety or board of public works and safety of  
29 a city **or borough.**

30 SECTION 52. IC 36-1-2-24 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. "Works board"  
32 means:

- 33 (1) board of commissioners, for a county not having a
- 34 consolidated city;
- 35 (2) board of public works or board of public works and safety, for
- 36 a city **or borough;** or
- 37 (3) town council, for a town.

38 SECTION 53. IC 36-4-1-1 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) **Except as**  
40 **provided in subsection (d),** municipalities are classified according to  
41 their status and population as follows:

42 STATUS AND POPULATION CLASS

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- 1 Cities of 250,000 or more . . . . . First class cities  
 2 Cities of 35,000 to 249,999 . . . . . Second class cities  
 3 Cities of less than 35,000 . . . . . Third class cities  
 4 Other municipalities of any  
 5 population . . . . . Towns **or boroughs**  
 6 (b) Except as provided in subsection (c), a city that attains a  
 7 population of thirty-five thousand (35,000) remains a second class city  
 8 even though its population decreases to less than thirty-five thousand  
 9 (35,000) at the next federal decennial census.  
 10 (c) The legislative body of a city to which subsection (b) applies  
 11 may, by ordinance, adopt third class city status.  
 12 **(d) A borough may have any population.**  
 13 SECTION 54. IC 36-6.5 IS ADDED TO THE INDIANA CODE AS  
 14 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 15 2003]:  
 16 **ARTICLE 6.5 LAWS GOVERNING BOROUGHES**  
 17 **Chapter 1. Creation of a Borough**  
 18 **Sec. 1. (a) This chapter applies to a township that contains at**  
 19 **least one (1) town, but does not contain a city.**  
 20 **(b) This chapter does not apply to a township or town in a**  
 21 **county containing a consolidated city.**  
 22 **Sec. 2. "Borough" refers to a borough established under this**  
 23 **article.**  
 24 **Sec. 3. "Participating town" refers to a town that participates**  
 25 **in a borough.**  
 26 **Sec. 4. A township that contains at least one (1) town may**  
 27 **establish a borough.**  
 28 **Sec. 5. To establish a borough, the legislative body of the**  
 29 **township and the legislative bodies of each participating town must**  
 30 **adopt identical resolutions to put the question whether a borough**  
 31 **should be established on the ballot for the next general election.**  
 32 **The resolution must include at least the following:**  
 33 **(1) The identity of all participating towns desiring to be**  
 34 **included within the territory.**  
 35 **(2) The language of the public question.**  
 36 **(3) The effective date of the proposed consolidation.**  
 37 **Sec. 6. (a) If the legislative bodies described in section 5 of this**  
 38 **chapter adopt the required resolutions, the legislative bodies shall**  
 39 **certify the question to the county election board.**  
 40 **(b) An election under this section shall be held in:**  
 41 **(1) the township proposed as a borough; and**  
 42 **(2) the manner prescribed by IC 3-10-8-6.**

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(c) The local public question shall be placed on the ballot of the next general election in the form prescribed by IC 3-10-9-4 and must state "Shall (the township and town(s) of \_\_\_\_\_) become a borough?".

(d) If the legislative bodies of the participating towns agree on a proposed name, the proposed name shall be submitted as a public question in the form prescribed by IC 3-10-9-4 and must state "Shall the borough be named \_\_\_\_\_?".

(e) Notice of an election shall be given in the proposed borough by publication in the manner prescribed by IC 5-3-1.

Sec. 7. (a) If, at least thirty (30) days before an election held under section 6 of this chapter, voters of each town involved in the election file with each of their municipal clerks a petition:

(1) signed by at least the number of voters required under IC 3-8-6-3 to place a candidate on the ballot in each of the municipalities; and

(2) proposing a name for the new borough, the election board shall place that name on the ballot for the election.

(b) The election board shall list names added to the ballot under this subsection in the order in which the petitions proposing them were received, but shall place them after the name included on the ballot under section 6 of this chapter.

(c) The names proposed under this section shall be submitted as public questions in the form prescribed by IC 3-10-9-4 and must state "Shall the borough be named \_\_\_\_\_?".

Sec. 8. (a) The election board shall report the results of the election to each legislative body, and a certified copy of the result of the election in the proposed borough shall be filed with each legislative body involved in the election.

(b) If a majority of the votes cast in the proposed borough, including the participating towns, is in favor of the consolidation, the participating towns are dissolved and merged into the borough, subject to sections 10 and 11 of this chapter.

(c) A certified copy of the result of the election shall be filed in the office of the recorder of the county in which the borough is located.

Sec. 9. (a) Except as provided in subsection (c), a consolidation approved under this chapter takes effect when:

(1) the officers of the borough are elected and qualified, as prescribed by section 13 of this chapter; and

(2) the certified election results under section 8 of this chapter

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are filed with:

(A) the office of the secretary of state; and

(B) the circuit court clerk of each county in which the borough is located.

(b) On the effective date of the consolidation, the towns and township cease to exist and are merged into borough.

(c) A consolidation approved under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A merger that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

**Sec. 10.** At the next general election after a vote in favor of consolidation at an election held under section 6 of this chapter, one (1) set of officers for a borough having the combined population of the township and all participating towns shall be elected by the voters of the township and participating towns as prescribed by statute, except that:

(1) one (1) member of the borough legislative body shall be elected from each district established under section 12 of this chapter; and

(2) the total number of at large members prescribed by statute for the borough legislative body shall be elected.

**Sec. 11. (a)** The election prescribed by section 10 of this chapter shall be conducted in the manner prescribed under IC 3, except that there must be a joint election board for the borough in place of separate boards for each of the participating towns and township. The joint election board consists of:

(1) the clerks of each of the participating towns; and

(2) the following persons appointed by the executive of the county in which the township and participating towns are located:

(A) At least one (1) resident voter of each participating town.

(B) At least one (1) resident voter of the township who is not a resident of a participating town.

Not more than two (2) of the persons appointed under subdivision (2) may be resident voters of a participating town or the township.

(b) In order to conduct the election prescribed by section 10 of this chapter, the joint election board shall meet and organize in the manner prescribed by IC 3-6 for election boards and has the same powers and duties as those boards. All subsequent primary and

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1 general elections in the borough shall be held in the manner  
2 prescribed by statute for second class cities.

3 **Sec. 12. (a)** The legislative bodies of the participating towns and  
4 the township that vote to consolidate under this chapter shall meet  
5 in joint session at the hall of the town having the largest population  
6 at 8 p.m. on the second Monday of January of the next year in  
7 which a general municipal election is to be held. At the joint  
8 meeting, the legislative bodies shall:

9 (1) elect a presiding officer and clerk; and

10 (2) fix, by joint resolution, the boundaries of the districts from  
11 which members will be elected to the legislative body of the  
12 borough.

13 The legislative bodies shall fix the district boundaries so that, as  
14 nearly as is possible, all parts of the participating towns and  
15 township have equal representation in the legislative body of the  
16 borough. The district boundaries fixed under this subsection  
17 constitute the district boundaries for the borough until they are  
18 altered by the legislative body of the borough.

19 (b) If any territory in the borough is not included in one (1) of  
20 the districts established under subsection (a), the territory is  
21 included in the district that:

22 (1) is contiguous to that territory; and

23 (2) contains the least population of all districts contiguous to  
24 that territory.

25 (c) If any territory in a participating town is included in more  
26 than one (1) of the districts established under subsection (a), the  
27 territory is included in the district that:

28 (1) is one (1) of the districts in which the territory is described  
29 in the joint resolution adopted under subsection (a);

30 (2) is contiguous to that territory; and

31 (3) contains the least population of all districts contiguous to  
32 that territory.

33 (d) A copy of the joint resolution passed under subsection (a)  
34 shall be:

35 (1) certified by the presiding officer;

36 (2) attested by the clerk; and

37 (3) filed with the legislative body of each of the participating  
38 towns and the circuit court clerk of the county in which the  
39 participating towns and township are located.

40 **Sec. 13.** Officers elected under section 10 of this chapter shall  
41 qualify and take office at noon on the first Monday of January  
42 after the election.

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1       **Sec. 14. (a) Officers elected under section 10 of this chapter are**  
 2       **the successors in office of the officers of the participating towns**  
 3       **and township consolidating under this chapter.**

4       **(b) When the officers elected under section 10 take office, each**  
 5       **officer of the participating town and township shall deliver to the**  
 6       **successor in office all money, property, and records pertaining to**  
 7       **his office.**

8       **Sec. 15. (a) After a consolidation under this chapter takes effect,**  
 9       **the borough:**

10       **(1) has all the rights, powers, privileges, immunities, and**  
 11       **obligations of:**

12       **(A) a second class city regardless of the population of the**  
 13       **borough; and**

14       **(B) a township;**

15       **(2) is liable for all the debts, contracts, and liabilities of the**  
 16       **participating towns and township;**

17       **(3) is entitled to all the rights, credits, monies, and properties**  
 18       **of the participating towns and township; and**

19       **(4) may, in the name adopted in the consolidation, sue and be**  
 20       **sued in relation to the debts, contracts, liabilities, rights,**  
 21       **credits, monies, and properties of participating towns and**  
 22       **township.**

23       **(b) After a consolidation under this chapter takes effect,**  
 24       **pending actions that involve participating towns and townships**  
 25       **taking part in the consolidation shall be prosecuted to final**  
 26       **judgment and execution, and judgments rendered in those actions**  
 27       **may be executed and enforced against the borough without any**  
 28       **change of the name of the plaintiff or defendant.**

29       **Sec. 16. After a consolidation under this article takes effect, the**  
 30       **ordinances, rules, resolutions, bylaws, and regulations of each of**  
 31       **the participating towns and township remain in force within the**  
 32       **territory to which they applied before the consolidation, and**  
 33       **continue in force until amended or repealed by the legislative body**  
 34       **or an administrative body of the borough.**

35       **Chapter 2. Powers and Duties of Boroughs**

36       **Sec. 1. (a) Except as provided in this section, a borough has the**  
 37       **powers and duties and is subject to all statutes that are applicable**  
 38       **to all second class cities.**

39       **(b) A statute that applies to second class cities does not apply to**  
 40       **boroughs if the statute expressly excludes boroughs from its**  
 41       **application.**

42       **(c) A statute under this article or any other statute that is**

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expressly applicable to boroughs concerning all or part of a power granted to a second class city:

(1) governs a borough; and

(2) preempts any statutes applicable to a second class city that do not expressly exclude boroughs.

(d) If the application of a statute is applicable to second class cities with a specified population and the county of the second class city is not specified, the statute is applicable to a borough that has the same population as the second class city.

Sec. 2. (a) Except as provided in this section, a borough has the powers and duties and is subject to all statutes that are applicable to townships.

(b) A statute that applies to a township does not apply to a borough if the statute expressly excludes boroughs from its application.

(c) A statute under this article or any other statute that is expressly applicable to boroughs concerning all or part of a power granted to a township:

(1) governs a borough; and

(2) preempts any statutes applicable to a township that do not expressly exclude boroughs.

(d) If the application of a statute is applicable to townships with a specified population and the county of the township is not specified, the statute is applicable to a borough that has the same population as the township.

(e) If a statute is applicable to a second class city or a township, a borough has the powers and duties under the statute of a second class city.

Sec. 3. (a) Except as provided in this section, a borough executive has all the powers and duties of the city executive of a second class city and the powers and duties of a township trustee.

(b) A borough executive may not perform the assessing duties of a township assessor.

(c) Except as provided in subsection (d), unless a statute that applies to a city executive of a second class city or a township trustee expressly excludes a borough or a borough executive from its application, all statutes applicable to a city executive of a second class city or township trustee apply to the borough executive.

(d) A statute under this article or any other statute that is expressly applicable to a borough executive concerning all or part of a power granted to the executive of a second class city or a township executive:

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- (1) governs a borough executive; and
- (2) preempts any statutes applicable to the executive of a second class city or a township executive that do not expressly exclude a borough executive.

Sec. 4. (a) Except as provided in this section, the borough legislative body has all the powers and duties of the legislative body of a second class city.

(b) Except as provided in subsection (c), unless a statute that applies to the legislative body of a second class city expressly excludes a borough or the borough legislative body from its application, all statutes applicable to the legislative body of a second class city apply to the borough legislative body.

(c) A statute under this article or any other statute that is expressly applicable to a borough legislative body concerning all or part of a power granted to the legislative body of a second class city:

- (1) governs the borough legislative body; and
- (2) preempts any statutes applicable to the legislative body of a second class city that do not expressly exclude the borough legislative body.

Sec. 5. (a) Except as provided in this section, the borough fiscal body has all the powers and duties of the fiscal body of a second class city.

(b) Except as provided in subsection (c), unless a statute that applies to the fiscal body of a second class city expressly excludes a borough or the borough fiscal body from its application, all statutes applicable to the fiscal body of a second class city apply to the borough fiscal body.

(c) A statute under this article or any other statute that is expressly applicable to a borough fiscal body concerning all or part of a power granted to the fiscal body of a second class city:

- (1) governs the borough fiscal body; and
- (2) preempts any statutes applicable to the fiscal body of a second class city that do not expressly exclude the borough fiscal body.

Sec. 6. (a) Except as provided in this section, the borough assessor has all the powers and duties of an elected township assessor.

(b) Except as provided in subsection (c), unless a statute that applies to a township assessor expressly excludes a borough assessor from its application, all statutes applicable to a township assessor apply to the borough assessor.

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1 (c) A statute under this article or any other statute that is  
 2 expressly applicable to a borough assessor concerning all or part  
 3 of a power granted to the township assessor:

4 (1) governs the borough assessor; and

5 (2) preempts any statutes applicable to the township assessor  
 6 that do not expressly exclude the borough assessor.

7 Sec.7. (a) A borough clerk has all the powers and duties of a  
 8 clerk of a second class city.

9 (b) Except as provided in subsection (c), unless a statute that  
 10 applies to a clerk of a second class city expressly excludes a  
 11 borough clerk from its application, all statutes applicable to a clerk  
 12 of a second class city apply to the borough clerk.

13 (c) A statute under this article or any other statute that is  
 14 expressly applicable to a borough clerk concerning all or part of a  
 15 power granted to the clerk of a second class city:

16 (1) governs the borough clerk; and

17 (2) preempts any statutes applicable to the clerk of the second  
 18 class city that do not expressly exclude the borough assessor.

19 Sec. 8. (a) A borough controller has all the powers and duties of  
 20 a controller of a second class city.

21 (b) Except as provided in subsection (c), unless a statute that  
 22 applies to a controller of a second class city expressly excludes a  
 23 borough controller from its application, all statutes applicable to  
 24 a controller of a second class city apply to the borough controller.

25 (c) A statute under this article or any other statute that is  
 26 expressly applicable to a borough controller concerning all or part  
 27 of a power granted to the controller of a second class city:

28 (1) governs the borough controller; and

29 (2) preempts any statutes applicable to the controller of the  
 30 second class city that do not expressly exclude the borough  
 31 controller.

### 32 Chapter 3. Division of Powers of Boroughs

33 Sec. 1. (a) The powers of a borough are divided between the  
 34 executive and legislative branches of its government. A power  
 35 belonging to one (1) branch of a borough's government may not be  
 36 exercised by the other branch.

37 (b) A borough employee other than an elected or appointed  
 38 public officer may:

39 (1) be a candidate for any elective office and serve in that  
 40 office if elected; or

41 (2) be appointed to any office and serve in that office if  
 42 appointed;

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without having to resign as a borough employee.

Sec. 2. (a) All powers and duties of a borough that are executive or administrative in nature shall be exercised or performed by the borough executive, another borough officer, or a borough department.

(b) An ordinance of the borough legislative body requiring an executive or administrative function to be performed may:

(1) designate the department that is to perform that function; or

(2) establish a new department or agency to perform that function.

(c) If an executive or administrative function is not assigned by a statute, an ordinance, or a resolution, the borough executive shall assign that function to the proper department or officer.

Sec. 3. (a) The legislative power of a borough is vested in its legislative body. All powers and duties of a borough that are legislative in nature shall be exercised or performed by its legislative body. The legislative body of a borough may not elect or appoint a person to any office or employment, except as provided by statute.

(b) The legislative body may manage the finances of the borough to the extent that power is not vested in the executive branch.

Sec. 4. (a) If uncertainty exists or a dispute arises concerning the executive or legislative nature of a power or duty exercised or proposed to be exercised by a branch, an officer, a department, or an agency of the government of a borough, a petition may be filed in the circuit court of the county in which the borough is located by the borough executive, another borough elected official, the president of the borough legislative body, or any person who alleges and establishes to the satisfaction of the court that the person is or would be adversely affected by the exercise of the power; however, in a county having a superior court that has at least three (3) judges, the petition shall be filed in the superior court and shall be heard and determined by the court sitting en banc.

(b) The petition must set forth the action taken or the power proposed to be exercised and all facts and circumstances relevant to a determination of the nature of the power and must request that the court hear the matter and determine which branch, officer, department, or agency of the borough, if any, is authorized to exercise the power. On the filing of the petition, the clerk of the court shall issue notice to the borough executive, each municipal



1 elected official, and the president of the borough legislative body,  
 2 unless the petition was filed by that person, and to the municipal  
 3 attorney, department of law, or legal division.

4 (c) The court shall determine the matters set forth in the  
 5 petition and shall affix the responsibility for the exercise of the  
 6 power or the performance of the duty unless it determines that the  
 7 power or duty does not exist. Costs of the proceeding shall be paid  
 8 by the borough, except that if an appeal is taken from the decision  
 9 of the court by any party to the proceeding other than the borough  
 10 executive, another borough elected official, or the president of the  
 11 borough legislative body, the costs of the appeal shall be paid by  
 12 the unsuccessful party on appeal or in the manner directed by the  
 13 court deciding the appeal.

#### 14 Chapter 4. Borough Executive

15 Sec. 1. (a) The borough executive is the president. The president  
 16 shall be elected under IC 3-10-6 by the voters of each borough.

17 (b) A person is eligible to be a borough executive only if the  
 18 person meets the qualifications prescribed by IC 3-8-1-26.

19 (c) Residency in territory that is annexed by the borough before  
 20 the election is considered residency for purposes of subsection (b),  
 21 even if the annexation takes effect less than one (1) year before the  
 22 election.

23 (d) The borough executive must reside within the borough. The  
 24 executive forfeits office if the executive ceases to be a resident of  
 25 the borough.

26 (e) The term of office of a borough executive is four (4) years,  
 27 beginning at noon on January 1 after election and continuing until  
 28 a successor is elected and qualified.

#### 29 Sec. 2. The executive shall:

30 (1) enforce the ordinances of the borough and the statutes of  
 31 the state;

32 (2) provide a statement of the finances and general condition  
 33 of the borough to the borough legislative body at least once a  
 34 year;

35 (3) provide any information regarding borough affairs that  
 36 the legislative body requests;

37 (4) recommend, in writing, to the legislative body actions that  
 38 the executive considers proper;

39 (5) call special meetings of the legislative body when  
 40 necessary;

41 (6) supervise subordinate officers;

42 (7) ensure efficient government of the borough;

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- (8) fill vacancies in borough offices when required by IC 3-13-8;
- (9) sign all bonds, deeds, and contracts of the borough and all licenses issued by the borough;
- (10) approve or veto ordinances, orders, and resolutions of the legislative body under IC 36-6.5-5-22;
- (11) manage all borough property interests;
- (12) keep borough records open for public inspection;
- (13) attend all meetings of the borough legislative body;
- (14) administer poor relief under IC 12-20 and IC 12-30-4;
- (15) perform the duties of fence viewer under IC 32-26;
- (16) provide and maintain cemeteries under IC 23-14;
- (17) file an annual personnel report under IC 5-11-13;
- (18) provide and maintain borough parks and community centers under IC 36-10;
- (19) destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4;
- (20) provide insulin to the poor under IC 12-20-16; and
- (21) perform other duties prescribed by statute.

Sec. 3. (a) The executive may use the borough's share of state and county tax revenues and federal revenue sharing funds for all categories of community services if these funds are appropriated for these services by the borough legislative body. The executive may use these funds for both operating and capital expenditures.

(b) With the consent of the borough legislative body, the executive may contract with corporations for health and community services not specifically provided by another governmental entity.

(c) The executive may contract with a private person to provide regular or emergency ambulance service within the borough. The contract may provide for the imposition and collection of fees for this service.

(d) The borough legislative body may adopt a resolution to provide for the imposition and collection of fees for ambulance services provided by the police or fire department.

Sec. 4. The executive shall make the appointments prescribed by IC 36-6.5-8 and IC 36-6.5-9.

Sec. 5. (a) On notice of at least three (3) days to the person complained of, the executive:

- (1) shall hear a complaint against a person to whom the borough has issued a license; and
- (2) may:

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- (A) issue subpoenas to compel the attendance of witnesses;
- (B) administer oaths to witnesses; and
- (C) require witnesses to testify.

(b) To the extent they can be applied, the Indiana rules of procedure, including the right to appear by counsel and to compel the attendance of witnesses for or against persons complained of, apply to proceedings under this section.

(c) If the executive finds that the person complained of has willfully:

- (1) violated a term or condition of the person's license; or
  - (2) done or permitted to be done an act in violation of a statute or borough ordinance relating to the business licensed;
- the executive shall revoke or suspend the license. The executive shall file a copy of the executive's findings and determination with the borough fiscal officer within twenty-four (24) hours after the determination is made.

Sec. 6. At least once a month, the executive shall meet with the officers in charge of the borough departments:

- (1) for consultation on the affairs of the borough;
- (2) to adopt rules and regulations for the administration of the affairs of borough departments; and
- (3) to adopt rules and regulations prescribing a merit system for selecting, appointing, or promoting borough officers and employees.

A record of meetings under this section shall be kept.

Sec. 7. The executive may appoint three (3) competent persons to:

- (1) examine without notice, the borough accounts and property in the possession or custody of:
  - (A) a borough department;
  - (B) an officer; or
  - (C) an employee; and
- (2) report the results of the investigation.

Sec. 8. (a) Whenever the executive is absent or going to be absent from the borough, ill, or injured, the executive may designate:

- (1) the borough vice president, if that position has been established under IC 36-6.5-8-5; or
- (2) a member of the borough legislative body;

as acting executive, with all the powers of the office. The executive may exercise this power not more than fifteen (15) days in any sixty (60) day period.



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(b) A designation under subsection (a) shall be certified to the president of the legislative body and clerk of the borough legislative body. In addition, when the executive resumes duties, the executive shall certify to those officers the expiration of the designation.

(c) When the president of the borough legislative body files with the circuit court of the county in which the borough is located a written statement suggesting that the executive is unable to discharge the powers and duties of his office, the circuit court shall convene not later than forty-eight (48) hours after the statement is filed to decide that question. After that, when the executive files with the circuit court a written declaration that no inability exists, the circuit court shall convene not later than forty-eight (48) hours after the declaration is filed to decide whether that is the case. Upon a decision that no inability exists, the executive shall resume the powers and duties of office.

(d) If the circuit court decides under subsection (c) that the executive is unable to discharge the powers and duties of office, then:

- (1) the borough vice president, if that position has been established under IC 36-6.5-8-5; or
- (2) the chairman of the legislative body, if there is no borough vice president;

shall serve as acting executive, with all the powers of the office. A person may serve as acting executive for not more than six (6) months under this subsection. The borough legislative body may appropriate funds to compensate a person acting as executive under this subsection.

**Sec. 9. (a)** The office of executive becomes vacant whenever the executive:

- (1) dies, resigns, or is removed from office;
- (2) ceases to be a resident of the borough;
- (3) is convicted of a felony, as provided in IC 5-8-1-37; or
- (4) is unable to discharge the powers and duties of the executive's office for more than six (6) months.

(b) The vacancy shall be filled under IC 3-13-8.

#### **Chapter 5. Borough Legislative Body**

**Sec. 1.** This chapter applies to a borough.

**Sec. 2. (a)** The borough legislative body shall be elected under IC 3-10-6 by the voters of each borough.

(b) A person is eligible to be a member of the legislative body only if the person meets the qualifications prescribed by



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1 IC 3-8-1-27.

2 Sec. 3. (a) Residency in territory that is annexed by the borough  
3 before the person files a declaration of candidacy or petition of  
4 nomination is considered residency for the purposes of section 2(b)  
5 of this chapter, even if the annexation takes effect less than one (1)  
6 year before the election.

7 (b) A member of the legislative body must reside within:

8 (1) the borough; and

9 (2) the district from which the member was elected, if  
10 applicable.

11 (c) A member forfeits office if the member ceases to be a  
12 resident of the district or borough.

13 Sec. 4. The term of office of a member of the legislative body is  
14 four (4) years, beginning at noon on January 1 after election and  
15 continuing until a successor is elected and qualified.

16 Sec. 5. The legislative body shall adopt an ordinance to divide  
17 the borough into six (6) districts that:

18 (1) are composed of contiguous territory, except for territory  
19 that is not contiguous to any other part of the borough;

20 (2) are reasonably compact;

21 (3) do not cross precinct boundary lines, except as provided in  
22 section 6 or 7 of this chapter; and

23 (4) contain, as nearly as is possible, equal population.

24 Sec. 6. The boundary of a borough legislative body district may  
25 cross a precinct boundary line if:

26 (1) more than one (1) member of the legislative body elected  
27 from the districts established under section 5 of this chapter  
28 resides in one (1) precinct established under IC 3-11-1.5 after  
29 the most recent municipal election; and

30 (2) following the establishment of a legislative body district  
31 whose boundary crosses a precinct boundary line, not more  
32 than one (1) member of the legislative body elected from  
33 districts resides within the same borough legislative body  
34 district.

35 Sec. 7. The boundary of a borough legislative body district may  
36 cross a precinct line if the districts would not otherwise contain, as  
37 nearly as is possible, equal population.

38 Sec. 8. (a) A borough legislative body district with a boundary  
39 described by section 6 or 7 of this chapter may not cross a census  
40 block boundary line except:

41 (1) when following a precinct boundary line; or

42 (2) if the borough legislative body certifies in the ordinance

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1 that the census block has no population and is not likely to  
2 ever have population.

3 (b) The legislative body may not adopt an ordinance dividing  
4 the borough into districts with boundaries described by section 6  
5 or 7 of this chapter unless the clerk of the borough mails a written  
6 notice to the circuit court clerk. The notice must:

7 (1) state that the legislative body is considering the adoption  
8 of an ordinance described by this subsection; and

9 (2) be mailed not later than ten (10) days before the legislative  
10 body adopts the ordinance.

11 Sec. 9. The division under section 5 of this chapter shall be made  
12 in 2012, every ten (10) years after that, and when required to  
13 assign annexed territory to a district. This division may be made at  
14 any other time, subject to IC 3-11-1.5-32.

15 Sec. 10. (a) The legislative body is composed of six (6) members  
16 elected from the districts established under section 5 of this chapter  
17 and three (3) at-large members.

18 (b) Each voter of the borough may vote for three (3) candidates  
19 for at-large membership and one (1) candidate from the district in  
20 which the voter resides. The three (3) at-large candidates receiving  
21 the most votes from the whole borough and the district candidates  
22 receiving the most votes from their respective districts are elected  
23 to the legislative body.

24 Sec. 11. (a) If any territory in the borough is not included in one  
25 (1) of the districts established under this section, the territory is  
26 included in the district that:

27 (1) is contiguous to that territory; and

28 (2) contains the least population of all districts contiguous to  
29 that territory.

30 (b) If any territory in the borough is included in more than one  
31 (1) of the districts established under this section, the territory is  
32 included in the district that:

33 (1) is one (1) of the districts in which the territory is described  
34 in the ordinance adopted under this section;

35 (2) is contiguous to that territory; and

36 (3) contains the least population of all districts contiguous to  
37 that territory.

38 Sec. 12. A copy of the ordinance establishing districts under this  
39 chapter must be filed with the circuit court clerk of the county that  
40 contains the greatest population of the borough not later than  
41 thirty (30) days after the ordinance is adopted.

42 Sec. 13. The legislative body may:

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- (1) expel any member for violation of an official duty;
- (2) declare the seat of any member vacant if the member is unable to perform the duties of the member's office; and
- (3) adopt its own rules to govern proceedings under this section.

However, a two-thirds (2/3) vote is required to expel a member or vacate the member's seat.

Sec. 14. (a) The legislative body shall hold its first regular meeting in its chamber at 7:30 p.m. on the first Monday in January after its election. In subsequent months, the legislative body shall hold regular meetings at least once a month unless its rules require more frequent meetings.

(b) At its first regular meeting and on the first Monday of each succeeding January, the legislative body shall choose from its members a chairman and a vice chairman.

(c) A special meeting of the legislative body shall be held when called by the borough executive or when called under the rules of the legislative body.

Sec. 15. The borough clerk is the clerk of the legislative body. The borough clerk shall:

- (1) preserve the legislative body's records in the clerk's office;
- (2) keep an accurate record of the legislative body's proceedings;
- (3) record the ayes and nays on each vote on an ordinance or resolution;
- (4) record the ayes and nays on other votes when requested to do so by two (2) or more members;
- (5) present ordinances, orders, or resolutions to the borough executive under section 21 of this chapter; and
- (6) record ordinances under section 21 of this chapter.

Sec. 16. A majority of all the elected members of the legislative body constitutes a quorum.

Sec. 17. (a) A requirement that an ordinance, resolution, or other action of the legislative body be passed by a majority vote means at least a majority vote of all the elected members.

(b) A requirement that an ordinance, resolution, or other action of the legislative body be passed by a two-thirds (2/3) vote means at least a two-thirds (2/3) vote of all the elected members.

Sec. 18. A majority vote of the legislative body is required to pass an ordinance, unless a greater vote is required by statute.

Sec. 19. (a) A two-thirds (2/3) vote of all the elected members, after unanimous consent of the members present to consider the

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ordinance, is required to pass an ordinance of the legislative body on the same day or at the same meeting at which it is introduced.

(b) Subsection (a) does not apply to a zoning ordinance or amendment to a zoning ordinance that is adopted under IC 36-7.

Sec. 20. (a) An ordinance, an order, or a resolution passed by the legislative body is considered adopted when it is:

(1) signed by the presiding officer; and

(2) either approved by the borough executive or passed over the executive's veto by the legislative body under section 22 of this chapter.

If required by statute, an adopted ordinance, order, or resolution must be adopted or published before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under subsection (c); or

(2) there is an urgent necessity requiring its immediate effectiveness, the borough executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in each of the districts from which members are elected to the legislative body.

(c) If a borough publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

(1) of the ordinances in the book or pamphlet;

(2) of the date of adoption of the ordinances; and

(3) that the ordinances have been properly signed, attested, recorded, and approved.

(d) This section does not apply to a zoning ordinance, an amendment to a zoning ordinance, or a resolution approving a comprehensive plan that is adopted under IC 36-7.

Sec. 21. After an ordinance, order, or resolution passed by the legislative body has been signed by the presiding officer, the clerk shall present it to the borough executive and record the time of the presentation.

Sec. 22. (a) Within ten (10) days after an ordinance, an order, or a resolution is presented to the borough executive, the borough executive shall:

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(1) approve the ordinance, order, or resolution by entering the executive's approval on it, signing it, and sending the legislative body a message announcing the executive's approval; or

(2) veto the ordinance, order, or resolution by returning it to the legislative body with a message announcing the executive's veto and stating the executive's reasons for the veto.

The executive may approve or veto separate items of an ordinance appropriating money or levying a tax.

(b) If the executive fails to perform the executive's duty under subsection (a), the ordinance, order, or resolution is considered vetoed.

(c) Whenever an ordinance, order, or resolution is vetoed by the borough executive, it is considered defeated unless the legislative body, at its first regular or special meeting after the ten (10) day period prescribed by subsection (a), passes the ordinance, order, or resolution over the executive's veto by a two-thirds (2/3) vote.

Sec. 23. Within a reasonable time after an ordinance of the legislative body is adopted, the clerk shall record it in a book kept for that purpose. The record must include:

- (1) the signature of the presiding officer;
- (2) the attestation of the clerk;
- (3) the executive's approval or veto of the ordinance;
- (4) if applicable, a memorandum of the passage of the ordinance over the veto; and
- (5) the date of each recorded item.

The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance.

Sec. 24. The legislative body may pass ordinances, orders, resolutions, and motions for the government of the borough, the control of the borough's property and finances, and the appropriation of money.

Sec. 25. (a) The legislative body may, by ordinance, make loans of money and issue bonds for the purpose of refunding those loans. The loans may be made only to procure money to be used in the exercise of the powers of the borough or for the payment of borough debts.

(b) An ordinance adopted under this section:

- (1) must include the terms of the bonds to be issued in evidence of the loan;
- (2) must include the time and manner of giving notice of the sale of the bonds;

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(3) must include the manner in which the bonds will be sold;  
and

(4) may authorize a total amount for any issue of bonds.

(c) Bonds issued under this section may be sold in parcels of any size and at any time their proceeds are needed by the borough.

(d) Bonds issued and sold by a borough under this section:

(1) are negotiable with or without registration, as may be provided by the ordinance authorizing the issue;

(2) may bear interest at any rate;

(3) may run not longer than thirty (30) years;

(4) may contain an option allowing the borough to redeem them in whole or in part at specified times prior to maturity; and

(5) may be sold for not less than par value.

(e) The borough fiscal officer shall:

(1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the terms of the ordinance authorizing the sale;

(2) certify the amount the purchaser is to pay, together with the name and address of the purchaser;

(3) receive the amount of payment certified;

(4) deliver the bonds to the purchaser;

(5) take a receipt for the securities delivered;

(6) pay the purchaser's payment into the borough treasury; and

(7) report the proceedings of the sale to the legislative body.

The actions of the fiscal officer under this subsection are ministerial.

Sec. 26. (a) The legislative body may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the borough, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the borough's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made in the same manner as loans made under section 25 of this chapter, except that:

(1) the ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing five (5) years to provide for refunding the loans; and

(2) the loans must be evidenced by notes of the borough in

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terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

(b) The legislative body may, by ordinance, make loans and issue notes for the purpose of refunding those loans in anticipation of revenues of the borough that are anticipated to be levied and collected during the term of the loans. The term of a loan made under this subsection may not be more than five (5) years. Loans under this subsection shall be made in the same manner as loans made under section 25 of this chapter, except that:

(1) the ordinance authorizing the loans must appropriate and pledge to their payment a sufficient amount of the revenues in anticipation of which they are issued and out of which they are payable; and

(2) the loans must be evidenced by time warrants of the borough in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which they are issued and out of which they are payable.

(c) An action to contest the validity of a loan made under this section must be brought within fifteen (15) days from the day on which the ordinance is adopted.

Sec. 27. (a) The legislative body may hire or contract with competent attorneys and legal research assistants on terms the legislative body considers appropriate.

(b) Employment of an attorney under this section does not affect the borough department of law established under IC 36-6.5-8.

(c) Appropriations for salaries of attorneys and legal research assistants employed under this section may not exceed the appropriations for similar salaries in the budget of the borough department of law.

#### **Chapter 6. Borough Budget Procedures and Compensation of Officers and Employees**

Sec. 1. (a) As used in this section, "compensation" means the total of all money paid to an elected borough officer for performing duties as a borough officer, regardless of the source of funds from which the money is paid.

(b) The borough legislative body shall, by ordinance, fix the annual compensation of all elected borough officers. The ordinance must be published under IC 5-3-1, with the first publication at least thirty (30) days before final passage by the legislative body.



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(c) The compensation of an elected borough officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year.

Sec. 2. (a) This section does not apply to compensation paid by a borough to members of its police and fire departments.

(b) Subject to the approval of the borough legislative body, the borough executive shall fix the compensation of each appointive officer, deputy, and other employee of the borough. The legislative body may reduce but may not increase any compensation fixed by the executive. Compensation must be fixed under this section before September 30 of each year for the ensuing budget year.

(c) Compensation fixed under this section may not be increased during the budget year for which it is fixed, but may be reduced by the executive.

(d) Notwithstanding subsection (b), the borough clerk may, with the approval of the legislative body, fix the salaries of deputies and employees appointed under IC 36-6.5-10-3.

Sec. 3. (a) Subject to the approval of the borough legislative body, the borough executive may provide that borough officers and employees receive additional compensation for services that:

- (1) are performed for the borough;
- (2) are not governmental in nature; and
- (3) are connected with the operation of a municipally owned utility or function.

(b) Subject to the approval of the executive and legislative body, the administrative agency operating the utility or function shall fix the amount of the additional compensation, which shall be paid from the revenues of the utility or function.

Sec. 4. Salaries of borough officers and employees shall be scheduled as provided in the budget classification prescribed by the state board of accounts.

Sec. 5. Before the publication of notice of budget estimates required by IC 6-1.1-17-3, each borough shall formulate a budget estimate for the ensuing budget year in the following manner:

- (1) Each department head shall prepare for the department an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure the department head anticipates.
- (2) The borough fiscal officer shall prepare an itemized estimate of revenues available for the ensuing budget year and shall prepare an itemized estimate of expenditures for other purposes above the money proposed to be used by the

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departments.

(3) The borough executive shall meet with the department heads and the fiscal officer to review and revise their various estimates.

(4) After the executive's review and revision, the fiscal officer shall prepare for the executive a report of the estimated department budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates.

Sec. 6. (a) The fiscal officer shall present the report of budget estimates to the borough legislative body under IC 6-1.1-17. After reviewing the report, the legislative body shall prepare an ordinance fixing the rate of taxation for the ensuing budget year and an ordinance making appropriations for the estimated department budgets and other borough purposes during the ensuing budget year. The legislative body, in the appropriation ordinance, may reduce any estimated item from the figure submitted in the report of the fiscal officer, but it may increase an item only if the executive recommends an increase. The legislative body shall promptly act on the appropriation ordinance.

(b) In preparing the ordinances described in subsection (a), the legislative body shall make an allowance for the cost of fire protection to annexed territory described in IC 36-4-3-7(d) for the year fire protection is first offered to that territory.

Sec. 7. (a) After the passage of the appropriation ordinance, the borough legislative body may, on the recommendation of the borough executive, make further or additional appropriations by ordinance, unless the result of the additional appropriations is to increase the tax levy set under IC 6-1.1-17.

(b) The legislative body may, by ordinance, decrease any appropriation.

(c) The executive may, by executive order, decrease an appropriation made for any executive department.

Sec. 8. An appropriation ordinance must specify, by items, the amount of each appropriation and the department for which the appropriation is made.

Sec. 9. The department budgets prepared under section 5 of this chapter must include the compensation of department heads and must be submitted to the borough legislative body under section 6 of this chapter.

Sec. 10. If the borough legislative body does not pass the ordinances required by section 6 of this chapter on or before September 30 of each year, the most recent annual appropriations

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and annual tax levy are continued for the ensuing budget year.

**Chapter 7. Miscellaneous Fiscal and Administrative Provisions**

**Sec. 1. Money may be paid out of the borough treasury only on warrant of the borough fiscal officer. Unless a statute provides otherwise, the fiscal officer may draw a warrant against a fund of the borough only if:**

- (1) an appropriation has been made for that purpose and the appropriation is not exhausted;
- (2) the warrant is for a salary fixed by statute or ordinance;
- (3) the warrant is for a claim allowed under section 4 of this chapter;
- (4) the fiscal officer is ordered to issue the warrant under section 2 of this chapter;
- (5) the warrant is for payment of a judgment that the borough must pay; or
- (6) the warrant is for interest due on borough bonds.

**Sec. 2. (a) A borough board or legislative body may order the issuance of warrants for payment of money by the borough only at a meeting of the board or legislative body.**

**(b) A borough officer who violates this section forfeits office.**

**Sec. 3. (a) The borough fiscal officer may audit a claim against the borough by examining under oath any officer, agent, or employee of the borough or any other person. When acting under this section, the fiscal officer has the same powers as the borough legislative body in summoning and examining witnesses.**

**(b) If the fiscal officer finds that:**

- (1) the claim includes an item for which no appropriation has been made;
- (2) there is not a sufficient balance for payment of the claim in the proper fund; or
- (3) the claim should not be approved for any reason;

**the fiscal officer may not issue warrants to pay the claim and shall notify the proper department of the officer's reasons for refusing to pay the claim.**

**Sec. 4. (a) Except as provided in section 10 of this chapter, a borough board or legislative body may allow a claim:**

- (1) only at a meeting of the board or legislative body; and
- (2) only if the claim was filed in the manner prescribed by IC 5-11-10-2 at least five (5) days before the meeting.

**(b) A borough officer who violates this section forfeits office.**

**Sec. 5. (a) As used in this section, "claim" means a bill or an invoice submitted for goods or services.**

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(b) Except as provided in section 10 of this chapter, a warrant for payment of a claim against a borough may be issued only if the claim is:

- (1) supported by a fully itemized invoice or bill under IC 5-11-10-1.6;
- (2) approved by the officer or person receiving the goods or services;
- (3) filed with the borough fiscal officer;
- (4) audited and certified by the fiscal officer before payment that each invoice is true and correct; and
- (5) allowed by the borough legislative body or the borough board having jurisdiction over allowance of the claim.

(c) The certification by the fiscal officer under subsection (b)(4) must be on a form prescribed by the state board of accounts.

Sec. 6. (a) The compensation fixed for borough officers and employees under this title is in full for all governmental services and in place of all:

- (1) fees;
- (2) penalties;
- (3) fines;
- (4) interest;
- (5) costs;
- (6) forfeitures;
- (7) commissions; and
- (8) percentages;

which shall be paid into the borough treasury each week.

(b) An officer or employee is entitled to a salary only after the officer or employee presents the borough fiscal officer with:

- (1) a detailed, verified statement of the monies the officer or employee has received since the officer or employee's most recent statement; and
- (2) a receipt showing payment of those monies to the fiscal officer.

(c) With regard to a statement under subsection (b), the fiscal officer may:

- (1) prescribe the form of the statement;
- (2) require officers and employees to submit the statement; and
- (3) examine persons in regard to the statement.

Sec. 7. (a) One (1) to three (3) days before the vacation leave period of a borough officer or employee begins, the borough may pay the officer or employee the amount of compensation the officer

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or an employee will earn while on vacation leave.

(b) Compensation for services paid to a salaried borough officer or employee pursuant to a fixed schedule set forth in a written contract or salary ordinance shall not be construed as having been paid in advance. Under such an arrangement, the borough shall maintain records to verify that actual work is performed for all salary paid.

Sec. 8. (a) This section does not prohibit:

- (1) the borough works board from making long term contracts for utility services under IC 36-9; or
- (2) a department from issuing bonds or other obligations authorized by law.

(b) A borough department, officer, or employee may not obligate the borough to any extent beyond the amount of money appropriated for that department, officer, or employee. An obligation made in violation of this section is void.

Sec. 9. A borough official who recklessly:

- (1) issues a bond, certificate, or warrant for the payment of money in excess of an appropriation; or
- (2) enters into an obligation prohibited by section 8 of this chapter;

commits a Class B misdemeanor and is liable on the official's official bond to any person injured by the official's actions.

Sec. 10. (a) A borough legislative body may adopt an ordinance allowing money to be disbursed for lawful borough purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the borough fiscal officer may make claim payments in advance of board allowance for the following kinds of expenses if the borough legislative body has adopted an ordinance under subsection (a):

- (1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
- (2) License or permit fees.
- (3) Insurance premiums.
- (4) Utility payments or utility connection charges.
- (5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
- (6) Grants of state funds authorized by statute.
- (7) Maintenance or service agreements.
- (8) Leases or rental agreements.



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1 (9) Bond or coupon payments.

2 (10) Payroll.

3 (11) State, federal, or county taxes.

4 (12) Expenses that must be paid because of emergency  
5 circumstances.

6 (13) Expenses described in an ordinance.

7 (c) Each payment of expenses under this section must be  
8 supported by a fully itemized invoice or bill and certification by the  
9 fiscal officer.

10 (d) The borough legislative body or the borough board having  
11 jurisdiction over the allowance of the claim shall review and allow  
12 the claim at the legislative body's next regular or special meeting  
13 following the preapproved payment of the expense.

14 Sec. 11. Each borough agency, board, commission, district, or  
15 other borough entity shall file one (1) copy of that agency's,  
16 board's, commission's, district's, or entity's financial records with  
17 the borough fiscal officer.

18 Chapter 8. Borough Departments, Boards, and Appointed  
19 Officers

20 Sec. 1. (a) Notwithstanding any other law, the borough executive  
21 shall appoint the head of each department established under  
22 section 2 of this chapter. However, the executive's appointment of  
23 the head of the department is subject to the approval of any  
24 statutory board or commission established in the department,  
25 including and limited to:

26 (1) the works board, if a department of public works is  
27 established;

28 (2) the safety board, if a department of public safety is  
29 established;

30 (3) the board of parks and recreation, if a department of  
31 parks and recreation is established;

32 (4) the borough plan commission, if a planning department is  
33 established;

34 (5) the economic development commission, if a department of  
35 economic development is established;

36 (6) the redevelopment commission, if a department of  
37 redevelopment is established;

38 (7) the board of sanitary commissioners, if a department of  
39 public sanitation is established;

40 (8) the board of flood control commissioners, if a department  
41 of flood control is established;

42 (9) the utility service board, if a department of utilities is

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established;

(10) the waterworks board of trustees, if a department of waterworks is established; and

(11) the board of aviation commissioners, if a department of aviation is established.

(b) Each department head appointed under subsection (a) must have the qualifications required by statute for that department.

(c) To be eligible to be appointed as a member of a borough board established under section 3 of this chapter, a person must be a resident of the borough.

(d) This section does not apply to departments, boards, or commissions established by interlocal cooperation agreements under IC 36-1-7 or to other joint entities established by law.

Sec. 2. (a) The borough legislative body shall, by ordinance passed upon the recommendation of the borough executive, establish the executive departments that it considers necessary to efficiently perform the administrative functions required to fulfill the needs of the borough's citizens.

(b) The head of each borough department or agency is under the jurisdiction of the executive.

(c) The following departments may be established:

(1) Department of finance or administration.

(2) Department of law.

(3) Department of poor relief

(4) Department of public works.

(5) Department of public safety.

(6) Department of parks and recreation.

(7) Department of human resources and economic development.

(8) Any other department considered necessary.

These departments shall perform the administrative functions assigned by statute and ordinance.

(d) The borough legislative body may, by ordinance passed upon the recommendation of the borough executive:

(1) terminate departments established under subsection (c); and

(2) transfer to or from those departments any powers, duties, functions, or obligations.

Sec. 3. (a) A board of public works and safety is established in each borough.

(b) Notwithstanding subsection (a), the legislative body of a borough may by ordinance establish as separate boards:

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1 (1) a board of public works; and  
 2 (2) a board of public safety;  
 3 to perform the functions of the board of public works and safety.

4 Sec. 4. (a) The borough executive shall appoint:

- 5 (1) a borough controller;  
 6 (2) a borough civil engineer;  
 7 (3) a corporation counsel;  
 8 (4) a chief of the fire department;  
 9 (5) a chief of the police department; and  
 10 (6) other officers, employees, boards, and commissions  
 11 required by statute.

12 (b) The board of public works and safety may be composed of  
 13 three (3) members or five (5) members appointed by the executive.  
 14 A member may hold other appointive positions in borough  
 15 government during the member's tenure. Section 3 of this chapter  
 16 applies to board member appointments under this section. The  
 17 executive shall appoint a clerk for the board.

18 (c) If the board of public works and board of public safety are  
 19 established as separate boards, each board may be composed of  
 20 three (3) members or five (5) members who are appointed by the  
 21 executive. A member may hold other appointive positions in  
 22 borough government during the member's tenure. The executive  
 23 shall appoint a clerk for each board.

24 Sec. 5. The borough legislative body may by ordinance establish  
 25 the position of vice president, who serves as the borough  
 26 executive's deputy. The ordinance must:

- 27 (1) provide that the vice president is appointed by and serves  
 28 at the pleasure of the executive; and  
 29 (2) set forth all the powers of the vice president, which may  
 30 not exceed the powers of the executive.

31 Sec. 6. (a) The corporation counsel is the head of the department  
 32 of law. The counsel's first deputy is the borough attorney, and the  
 33 counsel's second deputy is the assistant borough attorney.

34 (b) To be eligible to be appointed as the head of the department  
 35 of law, a person must meet the following requirements:

- 36 (1) Be admitted to the practice of law in Indiana.  
 37 (2) Be a resident of the county in which the borough is located.

38 Sec. 7. The head of the department of law shall:

- 39 (1) manage the legal affairs of the borough;  
 40 (2) prosecute violators of borough ordinances;  
 41 (3) give legal advice to the officers, departments, boards,  
 42 commissions, and other agencies of the borough;

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(4) draft ordinances or other legal papers for the borough and the borough's departments, boards, commissions, and other agencies when requested by the proper officer;

(5) maintain custody of the records of his office and turn them over to his successor in office;

(6) make all title searches and examine all abstracts required in public work of any kind, including opening, widening, or changing a street, an alley, or a public place;

(7) promptly commence all proceedings necessary or advisable for the protection or enforcement of the rights of the borough or the public;

(8) use all diligence to collect costs, fees, and recoveries within the scope of the department head's duties;

(9) report, in writing, to the borough executive all matters that the head of the department of law considers important; and

(10) report, in writing, to the borough fiscal officer all judgments for which the borough is liable.

Officers, departments, boards, commissions, and other agencies of the borough may not employ attorneys without the authorization of the head of the department of law.

#### **Chapter 9. Borough Clerk and Fiscal Officer**

**Sec. 1.** The borough controller appointed under IC 36-6.5-7-4 is the fiscal officer of a borough.

**Sec. 2. (a)** A borough clerk shall be elected under IC 3-10-6 by the voters of a borough.

**(b)** The borough clerk is the clerk of each borough.

**(c)** The borough controller is not liable in an individual capacity for any act or omission occurring in connection with the performance of the borough controller's duty as fiscal officer of the borough unless the act or omission constitutes gross negligence or an intentional disregard of the controller's duty.

**(d)** The term of office of a borough clerk is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

**Sec. 3.** If office space exists in a building owned or leased by the borough, the borough executive and legislative body shall provide office space for:

**(1)** the clerk; and

**(2)** the staff and records of the clerk.

**Sec. 4. (a)** A person is eligible to be the clerk only if the person meets the qualifications prescribed by IC 3-8-1-28.

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(b) Residency in territory that is annexed by the borough before the election is considered residency for the purposes of subsection (a), even if the annexation takes effect less than one (1) year before the election.

(c) The clerk must reside within the borough. The clerk forfeits office if the clerk ceases to be a resident of the borough.

**Sec. 5. The clerk shall do the following:**

(1) Serve as clerk of the borough legislative body under IC 36-6.5-5-15 and maintain custody of the legislative body's records.

(2) Maintain all records required by law.

(3) Keep the borough seal.

(4) As soon as a successor is elected and qualified, deliver to the successor all the records and property of the clerk's office.

(5) Perform other duties prescribed by law.

(6) Administer oaths when necessary in the discharge of the clerk's duties, without charging a fee.

(7) Take depositions, without charging a fee.

(8) Take acknowledgement of instruments that are required by statute to be acknowledged, without charging a fee.

(9) Serve as clerk of the borough court under IC 33-10.1-6-2, if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under IC 33-10.1-6-1.1.

**Sec. 6. The fiscal officer is the head of the borough department of finance. The fiscal officer shall do the following:**

(1) Prescribe the form of reports and accounts to be submitted to the department.

(2) Sign and issue all warrants on the borough treasury.

(3) Audit and revise all accounts and trusts in which the borough is concerned.

(4) Keep separate accounts for each item of appropriation made for each borough department, including a statement showing:

(A) the amount drawn on each appropriation;

(B) the unpaid contracts charged against each appropriation; and

(C) the balance remaining.

(5) At the end of each fiscal year, submit under oath to the borough legislative body a report of the accounts of the borough published in pamphlet form and showing revenues, receipts, expenditures, and the sources of revenues.

(6) Maintain custody of the records of the department and

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turn them over to the fiscal officer's successor in office.

(7) Perform duties prescribed by statute concerning the negotiation of borough bonds, notes, and warrants.

(8) Keep a register of bonds of the borough and of transfers of those bonds.

(9) Manage the finances and accounts of the borough and make investments of borough money, subject to the ordinances of the legislative body.

(10) Issue borough licenses on payment of the license fee.

(11) Collect fees as fixed by ordinance.

(12) Pay into the borough treasury, once each week, all fees and other borough money collected by the department during the preceding week, specifying the source of each item.

(13) Prescribe payroll and account forms for all borough offices.

(14) Prescribe the manner in which salaries shall be drawn.

(15) Prescribe the manner in which creditors, officers, and employees shall be paid.

(16) Provide that all salaries are payable monthly, unless the legislative body establishes more frequent payments.

(17) Notify the borough executive of the failure of any borough officer to collect money due the borough or to pay borough money into the borough treasury.

(18) Draw warrants on the borough treasury for miscellaneous borough expenditures not made under the direction of a department and not specifically fixed by statute.

Sec. 7. (a) A clerk may hire or contract with competent attorneys or legal research assistants on terms the clerk considers appropriate.

(b) Employment of an attorney under this section does not affect a borough department of law established under IC 36-6.5-8-2.

(c) Appropriations for the salaries of attorneys and legal research assistants employed under this section shall be approved in the annual budget and must be allocated to the clerk for the payment of attorney's and legal research assistant's salaries.

#### Chapter 10. Borough Deputies and Employees

Sec. 1. (a) The borough executive shall make the appointments prescribed by law. If an emergency requires additional employees for a borough office, board, commission, department, institution, or utility, the executive may also appoint those employees.

(b) This subsection does not apply to appointments made under IC 20. An executive may not make an appointment between

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1 midnight December 31 and noon January 1 of the last year of the  
2 executive's final term of office.

3 (c) This subsection does not apply to appointments made under  
4 IC 20. The executive may remove from office a board or  
5 commission member appointed by a prior executive if the  
6 appointment was made on or after the date of the general election  
7 and:

8 (1) the prior executive was a candidate for nomination as a  
9 party's candidate for election to the office of executive at the  
10 primary election held during the last year of the prior  
11 executive's term of office and the prior executive was not  
12 nominated at that election; or

13 (2) the prior executive was a candidate for another term of  
14 office as executive at the general election held during the last  
15 year of the prior executive's term of office and the prior  
16 executive was not elected to another term of office at that  
17 election;

18 and if the executive notifies the appointee of the removal and sends  
19 a written statement of the reasons for the removal to the borough  
20 legislative body.

21 (d) The executive may suspend or remove from office any  
22 officers, deputies, or other employees of the borough appointed by  
23 the executive or a prior executive, by notifying them to that effect  
24 and sending a written statement of the reasons for the suspension  
25 or removal to the borough legislative body.

26 (e) A person appointed by the executive to fill a vacancy caused  
27 by a removal under subsection (c) serves the remainder of the  
28 unexpired term of the appointee removed from office under  
29 subsection (c).

30 (f) Notwithstanding any other law, if the term of a member of a  
31 board who was appointed by the executive expires and the  
32 executive does not make an appointment to fill the vacancy, the  
33 member may continue to serve on the board for only sixty (60)  
34 days after the expiration date of the member's term.

35 **Sec. 2.** A department may appoint deputies and other employees  
36 at its pleasure unless a statute provides otherwise. A department  
37 may dismiss deputies and other employees, but if thirty (30) days  
38 have passed since the department head was appointed, the  
39 department head must file with the borough clerk a written  
40 statement of the reasons for dismissing any employee other than:

41 (1) a deputy; or

42 (2) a foreman, inspector, or laborer temporarily employed by

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the department of public works.

Sec. 3. (a) The borough clerk may appoint the number of deputies and employees authorized by the borough legislative body.

(b) The clerk's deputies and employees serve at the clerk's pleasure.

Sec. 4. (a) The borough legislative body may, by ordinance, authorize the borough fiscal officer to appoint a deputy.

(b) The fiscal officer is responsible for the official acts of the deputy.

#### **Chapter 11. Borough Manager**

Sec. 1. This chapter applies to a borough.

Sec. 2. As used in this chapter, "manager" refers to a borough manager employed under this chapter.

Sec. 3. (a) A borough may employ a nonpartisan manager to be the administrative head of the borough government. To employ a borough manager, the executive must initiate an ordinance and the borough legislative body must adopt an ordinance creating the manager position. An ordinance creating the manager position must state the powers and duties to be assumed by the manager.

(b) If the borough legislative body adopts an ordinance under this chapter to employ a manager, the borough legislative body may adopt an ordinance to permit the executive to perform the duties of the executive on a part-time basis.

Sec. 4. The manager may be employed to serve at the pleasure of the executive who may submit to the borough legislative body for approval under IC 36-6.5-5-2 the manager's compensation and terms of employment.

Sec. 5. The borough legislative body may not employ a member of the legislative body as the manager. A former member of the borough legislative body may not be employed as the manager for a period of two (2) years after leaving office.

Sec. 6. A borough may hire a manager solely on the basis of the applicant's administrative and educational qualifications. The borough shall give special deference to actual experience in or knowledge of accepted practices in the field of municipal management.

Sec. 7. A manager may not campaign for or against a candidate for the borough legislative body and may not participate in partisan political activities that would impair the manager's performance as a professional administrator.

Sec. 8. Two (2) or more boroughs may employ the same person as the manager of their respective boroughs.

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1       Sec. 9. The manager shall execute a bond for the faithful  
2 performance of the manager's duties in the manner prescribed by  
3 IC 5-4-1.

4       Sec. 10. The executive may appoint a qualified person to  
5 perform the duties of the manager whenever the manager is absent  
6 or unable to perform the manager's duties.

7       Sec. 11. The manager, under the direction of the executive, is  
8 responsible for the administrative duties of the borough. The  
9 powers and duties of the manager must be stated in the ordinance  
10 creating the manager position. The manager's powers and duties  
11 may include:

- 12       (1) attending the meetings of the legislative body and
- 13       recommending actions the manager considers advisable;
- 14       (2) hiring borough employees according to the pay schedules
- 15       and standards fixed by the legislative body or by statute;
- 16       (3) suspending, discharging, removing, or transferring
- 17       borough employees;
- 18       (4) delegating any of the manager's powers to an employee
- 19       responsible to the manager;
- 20       (5) administering and enforcing all ordinances, orders, and
- 21       resolutions of the legislative body;
- 22       (6) ensuring that all statutes that are required to be
- 23       administered by the legislative body or a borough employee
- 24       subject to the control of the legislative body are faithfully
- 25       administered;
- 26       (7) preparing budget estimates and submitting them to the
- 27       legislative body when required;
- 28       (8) executing contracts on behalf of the borough for materials,
- 29       supplies, services, or improvements after the completion of
- 30       the appropriations, notice, and competitive bidding required
- 31       by statute;
- 32       (9) receiving service of summons on behalf of the borough;
- 33       (10) administering the borough's economic development plans
- 34       and projects;
- 35       (11) advising the executive, borough legislative body, and
- 36       public on the conduct of borough affairs;
- 37       (12) making recommendations on policy formulation;
- 38       (13) recommending and executing borough improvements;
- 39       (14) serving on the board of public works and safety; and
- 40       (15) other powers and duties determined to be advisable by
- 41       the executive and legislative body.

42       Chapter 12. Borough Assessor

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1       **Sec. 1. A borough assessor shall be elected under IC 3-10-2-13**  
 2       **by the voters of a borough.**

3       **Sec. 2. (a) The borough assessor must reside within the borough.**

4       **(b) The assessor forfeits office if the assessor ceases to be a**  
 5       **resident of the borough.**

6       **Sec. 3. The term of office of a borough assessor is four (4) years,**  
 7       **beginning January 1 after election and continuing until a successor**  
 8       **is elected and qualified. However, the term of office of a borough**  
 9       **assessor elected at a general election in which no other borough**  
 10       **officer is elected ends on December 31 after the next election in**  
 11       **which any other borough officer is elected.**

12       **Sec. 4. The assessor shall perform the duties prescribed by**  
 13       **statute, including:**

14               **(1) assessment duties prescribed by IC 6-1.1; and**

15               **(2) administration of the dog tax and dog fund, as prescribed**  
 16               **by IC 15-5-9.**

17       **Sec. 5. (a) When performing the real property reassessment**  
 18       **duties prescribed by IC 6-1.1-4, a borough assessor may receive**  
 19       **per diem compensation, in addition to salary, at a rate fixed by the**  
 20       **county fiscal body, for each day that the borough assessor is**  
 21       **engaged in reassessment activities, including service on the county**  
 22       **land valuation commission.**

23       **(b) Subsection (a) applies regardless of whether professional**  
 24       **assessing services are provided to a borough under contract.**

25       **Sec. 6. (a) A borough assessor who becomes a certified level 2**  
 26       **Indiana assessor-appraiser is entitled to a salary increase of one**  
 27       **thousand dollars (\$1,000) after the assessor's certification under**  
 28       **IC 6-1.1-35.5.**

29       **(b) A certified level 2 Indiana assessor-appraiser who replaces**  
 30       **a borough assessor who is not so certified is entitled to a salary of**  
 31       **one thousand dollars (\$1,000) more than the salary of the person's**  
 32       **predecessor.**

33       **(c) An employee of a borough assessor who becomes a certified**  
 34       **level 2 Indiana assessor-appraiser is entitled to a salary increase of**  
 35       **five hundred dollars (\$500) after the employee's certification under**  
 36       **IC 6-1.1-35.5.**

37       **(d) A salary increase under this section comprises a part of the**  
 38       **borough assessor's or employee's base salary for as long as the**  
 39       **person serves in that position and maintains the level 2**  
 40       **certification.**

41       **Sec. 7. If necessary in the performance of their duties:**

42               **(1) borough assessors; or**

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(2) deputies and employees engaged in field work and authorized by the borough assessor; may use their own conveyances and are entitled to receive a mileage allowance equal to the sum per mile paid to state officers and employees. Only one (1) mileage may be allowed for each assessing team.

Sec. 8. (a) The county fiscal body shall, in the manner prescribed by IC 36-2-5 or IC 36-2-6, fix and appropriate money to pay the per diem established under section 5 of this chapter and the salaries and per diems of the county's borough assessors and any deputies or other employees that assist the elected borough assessor.

(b) Each borough assessor shall file the budget estimate required by IC 36-2-5-5 or IC 36-3-6-4. The budget estimate filed under this subsection must include all estimated expenses of the office, including costs incurred through litigation for the office.

Sec. 9. (a) Deputies and other employees of a borough assessor must file their claims for compensation, which must be verified by the borough assessor. Claims for employment that is not on an annual basis must show the actual number of days employed. Deputies and other employees of a borough assessor shall be paid monthly out of the county treasury, on the warrant of the county auditor.

(b) Employees of the borough assessor are entitled to no compensation other than that provided by this chapter.

### Chapter 13. Borough Responsibility for Road, Street and Bridge Maintenance

Sec. 1. The county executive shall construct, reconstruct, improve, and maintain all public highways, bridges, and culverts located in a borough unless the borough elects to assume responsibility for the construction, reconstruction, improvement and maintenance of highways, bridges, streets, roads, and culverts in the borough as set forth in this chapter.

Sec. 2. If a borough does not elect to assume responsibility under this chapter, the borough may not receive any distributions under IC 8-14-1 or IC 8-14-2. The county in which the borough is located receives any distributions that the borough would receive if it assumed responsibility for maintenance, construction, and improvement of roads and streets.

Sec. 3. If a borough elects to assume responsibility under this chapter, the borough must deliver a resolution to:

(1) the county executive; and



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(2) the auditor of state;  
 adopted by the borough executive that indicates that the borough  
 will assume responsibility. A borough assumes responsibility after  
 the first distribution of funds to the borough is made for  
 maintenance, construction, and improvement of roads, streets and  
 bridges in the year following the year the resolution was adopted.

SECTION 55. IC 34-30-2-158 IS ADDED TO THE INDIANA  
 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2003]: **Sec. 158. IC 36-6.5-8-2 (Concerning  
 the personal liability of the borough controller of a borough).**

SECTION 56. IC 36-7-1-12 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. "Municipal plan  
 commission" means a city plan commission, ~~or~~ a town plan  
 commission, **or a borough plan commission.**

SECTION 57. [EFFECTIVE JULY 1, 2003] (a) As used in this  
 SECTION, "committee" refers to the interim study committee on  
 boroughs established by this SECTION.

(b) There is established the interim study committee on  
 boroughs. The committee shall study the creation of boroughs as  
 set forth in this act. The committee shall prepare legislation for  
 introduction in the 2004 regular session of the general assembly  
 that:

(1) makes technical amendments to the law as amended by  
 this act that the committee determines are necessary to  
 conform with this act;

(2) creates provisions that the committee determines are  
 necessary to address the transition of a township and town to  
 a borough; and

(3) makes any substantive changes to the law that the  
 committee determines are necessary and that are consistent  
 with the purposes of this act.

(c) The committee shall operate under the policies governing  
 study committees adopted by the legislative council.

(d) The committee shall consist of the following eight (8)  
 members of the general assembly:

(1) Four (4) members of the house of representatives  
 appointed by the speaker of the house of representatives. Not  
 more than two (2) members appointed under this subdivision  
 may be members of the same political party.

(2) Four (4) members of the senate appointed by the president  
 pro tempore of the senate. Not more than two (2) members  
 appointed under this subdivision may be members of the same

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- 1           **political party.**  
2           **(e) Any vacancy occurring on the committee must be filled by**  
3           **the appointing authority for the unexpired term.**  
4           **(f) The affirmative votes of a majority of the members**  
5           **appointed to the committee are required for the committee to take**  
6           **action on any measure, including final reports.**  
7           **(g) The committee shall be staffed by the legislative services**  
8           **agency.**  
9           **(h) This SECTION expires January 1, 2004.**

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